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PROPOSING SUITABLE CLIMATE JUSTICE MODELS FOR RESOLVING THE FARMERS-HERDERS CONFLICT IN NIGERIA

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ABSTRACT

One of the most intractable security challenges facing the Nigerian state is the perennial farmers-herders conflict leading to dire humanitarian crises. The main cause of the conflict is the competition for scarce land and water resources between the nomadic livestock herders and sedentary farmers. Free range grazing on cultivated farmlands often leads to violent clashes between these two important sets of players in the Nigerian agricultural sector. The violence assumes diverse forms including murders, abductions, sexual violence, land grab, cattle rustling, banditry, wanton destruction of farmlands and general outlawry on an industrial scale. These clashes leave death, displacement, and impoverishment of thousands of people in their wake. Although the Nigerian government has majorly approached the conflict as a security issue, many factors have been identified as contributors to the conflict including ethnic and sectarian rivalries, elite influence, population growth, urbanization, neglect of traditional dispute resolution mechanisms and climate change. Most victims of the clashes are rural dwellers who are least responsible for the environmental factors that created the conflict. The authorities and victims seldom factor in climate change in the management of the crises, but studies have linked climate change-induced environmental degradation to the conflicts as a causal agent or threat multiplier. This paper conducts a review of the available data linking climate change to the interminable conflict between farmers and herders. The paper surveys the legal regime of Nigeria's climate change management system and proposes appropriate distributive, transformative and restorative justice models for resolving the conflict.

Keywords: Climate Change, Climate Justice, Farmers, Herders, Nigeria

1. INTRODUCTION

There has been an upsurge in incidents of violent clashes between itinerant cattle herders or pastoralists and crop farmers in West and Central Africa in the past decade.[1] The clashes are often accompanied with great losses to life and limb on both sides. It is estimated that some 15, 000 people were killed in one decade between 2010 and 2020 in the region.[2] The epicentre of the conflict appears to be Nigeria with significant cases recorded in Mali, Burkina Faso and the Central African Republic.[3] In Nigeria, over 1,300 people were said to have lost their lives to the conflict and another 300,000 displaced in 2018.[4] In 2018, the International Crisis Group reported that the farmer-herders violence was six times deadlier than the Boko Haram insurgency.[5]

The causes of the conflict are complex and overlapping. No single factor is wholly

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[1] Leif Brottem, 'The Growing Complexity of Farmer-Herder Conflict in West and Central Africa' July 21, 2021 <https://africacenter.org/publication/growing-complexity-farmer-herder-conflict-west-central-africa/> accessed 18 February 2024

[2] Ibid.

[3] Ibid.

[4] Ibid.

[5] International Crisis Group, 'Stopping Nigeria's Spiralling Farmer-Herder Violence' <https://www.crisisgroup.org/africa/west-africa/nigeria/262-stopping-nigerias-spiralling-farmer-herder-violence> accessed 18 February 2024

responsible for the spiralling conflict. The agents responsible for the conflict include ethno-religious tensions, population growth (both human and livestock), urbanization, elite involvement in pastoralism, change in migratory patterns by herders, weak governance, neglect of traditional dispute resolution mechanisms and climate change.[6] However, the focus of this paper is on the role of climate change in the conflict.

The paper is divided into 5 parts comprising this introduction, the role of climate change in the farmers-herders conflict, ongoing state efforts to address the conflict, the Nigerian legal framework on climate change, climate justice models applicable to the conflict and the conclusion.

2. THE ROLE OF CLIMATE CHANGE IN THE FARMERS-HERDERS CONFLICT

Both domestic and international commentators are agreed that the influence of climate change especially desertification on the escalating incidents of farmers-herders clashes is a settled fact.[7] Climate change has resulted to shrinking arable land for crop and livestock production thereby exciting violent contacts between crop farmers and cattle herders in ever increasing frequency. Also, urbanization and new farmland development have intruded into previously designated grazing areas forcing a change in transhumance routes.[8]

The Lake Chad which is the largest water body in the far north of Nigeria has shrunk by about 90% of its size in less than a century.[9] Other rivers and lakes across the country especially in the north have experienced varying degrees of depreciation in size and volume.[10] According to official figures, the rate of desert encroachment in the region is 0.6 Km per annum[11] while deforestation claims about 400 hectares of forest land every year.[12]

The semi-arid Sahel region of west and central Africa, of which northern Nigeria forms a part, has a long history of droughts. But the later part of the 20th century witnessed even greater frequency and severity of drought events.[13] In the south, soil erosion has degraded the

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[6]International Crisis Group, 'Herders against Farmers: Nigeria's Expanding Deadly Conflict' <https://www.crisisgroup.org/africa/west-africa/nigeria/252-herders-against-farmers-nigerias-expanding-deadly-conflict> accessed 18/2/2024; SPARC, 'Causes of Farmer- Herder Conflicts in Africa' <https://www.sparc-knowledge.org/sites/default/files/documents/resources/sparc-report-farmer-herder-conflicts-7july-digital.pdf> accessed 18 February 2024

[7] Akinyetun and Tope Shola and Ogunbodede and Nife Elizabeth, 'Conflict Weather: Climate Change as a Driver of Pastoralist Conflicts in the Lake Chad Region,' Jurnal Politik (2023) Vol. 9: Iss. 1, Article 2. DOI: 10.7454/jp.v9i1.1142 < https://scholarhub.ui.ac.id/politik/vol9/iss1/2> accessed 20/11/2023; UNDP (2020); Zebulon Suifon Takwa, 'Addressing the climate change insecurity challenge in Nigeria and the Lake Chad Basin' <https://www.undp.org/sites/g/files/zskgke326/files/migration/oslo_governance_centre/89e8d11e6b388f1174e625ebf8790f2c84c7bd0cead6164b91887972950117e9.pdf> accessed 20 February 2024.

[8]The United Nations 'Climate crisis in Nigeria: The UN fosters dialogue between farmers and cattle herders over shrinking land'< https://unsdg.un.org/latest/stories/climate-crisis-nigeria-un-fosters-dialogue-between-farmers-and-cattle-herders-over> accessed 20 February 2024

[9] The European Space Agency, 'Lake Chad's shrinking waters' <https://www.esa.int/ESA_Multimedia/Images/2019/03/Lake_Chad_s_shrinking_waters#:~:text=Once%20one%20of%20Africa's%20largest,around%2090%25%20since%20the%201960s.> Accessed 20 February 2024

[10]Olatunji Olaigbe, 'Disappearing Waters' Earth Science Journal, <https://www.earthisland.org/journal/index.php/articles/entry/nigeria-freshwater-supplies-are-drying-impacting-the-countrys-food-security-and-biodiversity/ >accessed 20 February 2024

[11] Federal Ministry of Environment of Nigeria, 'National Action Programme to Combat Desertification' < https://www.unccd.int/sites/default/files/naps/nigeria-eng2001.pdf > accessed 21 March 2024.

[12] The United Nations, 'Drought Conditions and Management Strategies in Nigeria' <https://www.ais.unwater.org/ais/pluginfile.php/629/mod_page/content/6/Nigeria_EN.pdf > accessed 20 March 2024

[13] Christopher E. Ndehedehe, and others, 'Evolutionary drought patterns over the Sahel and their teleconnections with low frequency climate oscillations' Atmospheric Research (2020) Vol. 233 <https://www.sciencedirect.com/science/article/abs/pii/S0169809519308580> accessed 20 March 2024

quantity and quality of land available for agriculture.[14] The menace of soil erosion coupled with desertification makes land even less accessible to farmers and herders. The two adverse environmental conditions in the north and south of Nigeria (i.e. desertification and erosion) seem to account for the concentration of the fierce competition for land resources by farmers and herders in the north central part of Nigeria.[15]

While the size of agricultural and pastoral land keeps diminishing by the year, human and livestock populations are growing exponentially. Human population in Nigerian has escalated from 56 million in 1963 to over 220 million in 2023.[16] The World Bank estimates Nigeria's annual population growth rate at 2.4%.[17] Cattle population also increased in Nigeria by over 100% from 9.3 million in 1981[18] to 21.16 million in 2021.[19] Most of this number are managed on free range grazing system. The pressure exerted on a receding land by ever growing human and cattle populations is compounded by decreasing and erratic rainfall.[20] The situation therefore becomes custom-made for conflict between competing interests for scarce resources.

2.1 Nigeria's Effort at Resolving the Conflict

The government at national and sub-national levels has initiated series of programmes and policies aimed at addressing the conflict. The various government interventions have one common feature: ending unrestricted pastoralism. This paper now examines the major forms of government intervention since independence and their respective efficacy in addressing the conflict.

2.2 Grazing Reserves

Grazing Reserves are defined as "areas set aside for the use of pastoralists and are intended to be the foci of livestock development."[21] Grazing reserves were conceived as safe havens and one stop shops for pastoralists where water, feeds and value addition were guaranteed.[22] The principal reason for grazing reserves was to end nomadic pastoralism through the settlement of the pastoralists in the reserves.

The advent of grazing reserves is traced to the Grazing Reserves Law of Northern Nigeria (1965). It was an improvement on and a codification of the colonial-era Fulani Amenities

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[14] G.E.K. Ofomata, 'Soil Erosion in Nigeria: The Views of a Geomorphologist' <https://www.unn.edu.ng/wp-content/uploads/2015/09/No-7-Inaugral-Lecture.pdf> accessed 20 February 2024

[15] (n 5)

[16] Worldometer, 'Nigeria Population live' <https://www.worldometers.info/world-population/nigeria-population/#:~:text=Nigeria%202023%20population%20is%20estimated,(and%20dependencies)%20by%20population> accessed 21 March 2024

[17] The World Bank, 'Population growth (annual-%)-Nigeria' <https://data.worldbank.org/indicator/SP.POP.GROW?locations=NG> accessed 21 February 2024

[18] Kubkomawa, H. I, 'Indigenous Breeds of Cattle, their Productivity, Economic and Cultural Values in Sub-Saharan Africa: A Review', International Journal of Research Studies in Agricultural Sciences (IJRSAS) Volume 3, Issue 1, 2017, PP 27-43 <https://www.arcjournals.org/pdfs/ijrsas/v3-i1/4.pdf> accessed 21/3/2024

[19] Statista, 'Stock of live cattle in Nigeria from 2010 to 2021' <https://www.statista.com/statistics/1297914/stock-of-live-cattle-in-nigeria/#:~:text=As%20of%202021%2C%20live%20cattle,increasing%20trend%20observed%20since%202010>accessed 21 March 2024

[20] (n 13)

[21] S.A. Ingawa and C. Tarawali and R. von Kaufmann, 'Grazing reserves in Nigeria: Problems, prospects and policy implications' ALPAN Network Papers No. December 1989 <https://cgspace.cgiar.org/rest/bitstreams/b3001f39-a655-499d-9c16-f2b99b1d02c2/retrieve> accessed 21 March 2024

[22] Ibid

Proposal.[23] The Law declared certain parcels of land as government grazing reserves to be used exclusively for livestock rearing.[24]

Although the Grazing Reserves Law is not a federal law, the Federal Government, through the Second National Development Plan (1970-1974) and Third National Development Plan (1975-1980), became directly concerned in the acquisition and development of grazing reserves. According to the Federal Ministry of Agriculture, there are 415 sites marked as grazing sites with all except two located in the northern part of Nigeria.[25]

For a variety of reasons (inadequate funding, reluctance of the herdsmen to adapt to settlement, ecological challenges, pressure from crop farmers, population growth etc.), the grazing reserves failed to achieve their purpose.[26] The failure of the grazing reserves necessitated the search for other solutions to the problem of nomadic pastoralism in Nigeria. One such proposed solution is the National Livestock Transformation Project (NLTP) which is discussed in the next sub-head of this paper.

2.3 The National Livestock Transformation Plan

In January 2019, the Federal Government, through the National Economic Council, approved and adopted the National Livestock Transformation Plan (NLLTP). The NLTP is a three-pronged ten-year strategy of the Federal and State Governments to transform the livestock sector of the economy through:

(a) Provision of avenues for modernising livestock rearing that would embrace both nomadic husbandry and ranching;
(b) Resettlement and rehabilitation of persons displaced by the conflict; and
(c) Post-conflict dialogue to foster peaceful co-existence of the farmers- and herders.[27]

The principal objective of the NLTP is the creation of a livestock industry of which ranching, mechanized technology and shared prosperity for herders and crop farmers would be the cardinal features.[28] The NTLP is modelled on public-private partner (PPP) structure intended to attract funding from the Federal and State governments, donor agencies and private investors.[29]

The NTLP was initially limited to eight northern states of Adamawa, Benue Kaduna, Nasarawa, Plateau, Taraba and Zamfara as pilot states.[30] Each of these states was obliged to provide eight sites within their grazing reserves for development of ranches. The Federal Government undertook to provide 80% of the funding required for the NLTP. [31] The National Economic Council later expanded the scope of the pilot states to include all the 19 northern states with plans to extend the Plan to cover the whole country.[32] Participation by any state in

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[23] Eric Teniola, 'The Dilemma over Grazing Laws', *The Cable* (15 April, 2023) <https://www.thecable.ng/the-dilemma-over-grazing-laws> accessed 21 March 2024

[24] Section 3 of the Law

[25]Clifford Ndujihe and others, 'Nigeria has 415 grazing reserves in 21 states; just 2 in South' *Vanguard Newspaper* (21/June/2021), <https://www.vanguardngr.com/2021/06/nigeria-has-415-grazing-reserves-in-21-states-just-2-in-south/> accessed 21 March 2024.

[26] Ismail Iro, 'Grazing Reserve Development: A Panacea to the Intractable Strife Between Farmers and Herders' <http://www.gamji.com/fulani8.htm> accessed 21 March 2024

[27] National Livestock Transformation Plan (NLTP) 2019-2028-Strategic Document

[28] Ibid.

[29] Ibid.

[30] ICG, 'Ending Nigeria's Herder-Farmer Crisis: The Livestock Reform Plan' <https://www.crisisgroup.org/africa/west-africa/nigeria/302-ending-nigerias-herder-farmer-crisis-livestock-reform-plan> accessed 24 March 2024

[31] Ibid.

[32] Ibid.

the NLTP is voluntary thus eliminating any insinuation of land grab. Each participating state offers the land for ranch building while the federal government provides 80% of the funding required.[33]

The crust of the NLTP is the modernization of the livestock industry by creating a symbiotic relationship between crop growers and livestock herders. A value chain is envisaged involving pasture growing/fodder production, animal husbandry, meat processing, dairy production, agro-financing and related activities.

The NLTP is built on five supporting pillars. These are conflict resolution, justice and peace, humanitarian relief and early recovery, human capital development and what the Strategy Document terms "crosscutting issues."[34] The supporting pillars theoretically accommodate the interests of all parties concerned in the conflict ranging from internally displaced persons and other victims of the conflict to the herders and other livestock farmers. The NLTP promises to enhance productivity in the agricultural sector through modernization of its processes and creating a just and peaceful culture for crop and livestock production.

It is observed that the NLTP is rather light on the ecological aspect of livestock management. The supporting pillars do not seem to consider environmental management as a factor in achieving the lofty objectives of the plan. This deficiency can be remedied by subordinating the NLTP to the Climate Change Act, 2021 and all policies and regulations made pursuant to it.

3. NIGERIA'S LEGAL FRAMEWORK ON CLIMATE CHANGE

The legal framework of Nigerian climate change response strategy traces its root to the Fundamental Objectives and Directive Principles of State Policy contained in chapter II of the Nigerian constitution. Section 20 of the constitution provides that "The State shall protect and improve the environment and safeguard the water, air and land, forest and wild life of Nigeria." Every other law and policy on the environment must be aimed at achieving this constitutional goal. Interestingly, Chapter II of the constitution under which section 20 falls is not justiciable by virtue of section 6 (6) (c) of the constitution.[35] However, in Centre for Oil Pollution Watch (COPW) v. NNPC,[36] the Supreme Court held that a community reading of the section with section 4 (2) (dealing with the National Assembly's power to make laws to give effect to chapter II of the constitution), section 33 (dealing with right to life including right to a clean and healthy environment) makes section 20 enforceable at law. The court further held that by virtue of the environmental rights contained in Article 24 of the African Charter on Human and Peoples' Rights which Nigeria domesticated vide the African Charter Act, Cap. A9 LFN 2004., section 20 of the constitution can be enforced through the instrumentality of the Fundamental Rights (Enforcement) Procedure Rules, 2009.[37] The court also relaxed the common law requirement of locus standi by allowing public spirited individuals and organizations to institute legal actions for the enforcement of the environmental rights of indigent victims of environmental degradation. This g decision coupled with statutory law potentially makes room

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[33] Premium 'Nigeria to spend N100 billion on new plan for cattle, other animals' *Premium Times* (September 19, 2019) <https://www.premiumtimesng.com/agriculture/agric-news/353290-nigeria-to-spend-n100-billion-on-new-plan-for-cattle-other-animals.html> accessed 24 March 2024

[34] These are issues of gender and youth inclusion, continuous research and maintaining information and strategic communication channels with stakeholders. See the NLTP Strategy Document.

[35] Archbishop Anthony Olubunmi Okogie v. Attorney-General of Lagos State, (1981) 2 NCLR 218

[36] [2019] 5 NWLR (Pt. 1666) 518

[37] Muhammed Tawfiq Ladan, 'A Review of Nigeria's 2021 Climate Change Act: Potential for Increased Climate Litigation' International Union for Conservation of Nature (ICUN),< https://www.iucn.org/news/commission-environmental-economic-and-social-policy/202203/a-review-nigerias-2021-climate-change-act-potential-increased-climate-litigation> Accessed 1 March 2024.

for public interest ligation and enforcement of climate change-related laws. [38]
The legal framework of climate change in Nigeria comprises of two classes of law namely, municipal legislation and policies and international obligations.

3.1 Nigeria's Municipal Laws on Climate Change
There are over 20 domestic environmental laws, regulations, and policies in Nigeria.[39] The prominent ones among them include the Environmental Impact Assessment (EIA) Act, National Environmental Standards and Regulations Enforcement Agency (NESREA) Act, The National Oil Spill Detection and Response Agency Act and the Climate Change Act, 2021. The Climate Change Act is the first stand-alone statute dedicated to addressing the challenge of climate change not only in Nigeria but in the West African sub-region.[40] It represents the country's commitment to climate action and an actionable strategic roadmap to the attainment of its environmental objectives and international climate change obligations. The Climate Change Act is a codification of the basic principles contained in various climate change policy documents and Nigeria's international commitments on climate change like the Revised National Climate Change Policy; national climate change programmes; the 2050 Long-Term Low Emission Vision, etc.[41]

The stated aim of the Climate change Act is the achievement of low greenhouse gases (GHG) emission, green growth and sustainable economic development.[42] The principal features of the Climate Change Act include mainstreaming of climate change action in national development plans; formulating and coordinating climate change action for achieving strategic climate change objective; facilitating the attainment of net-zero GHG emission between 2020 and 2070 in fulfilment of Nigeria's international commitments and enforcement of the National Climate change Action Plan by both public and private entities among others.
A major innovation of the Climate Change Act is the establishment of the National Council on Climate Change saddled with the responsibility of ensuring the achievement of the objectives of the Act and the climate change action plan.[43] The Act also creates a Climate Change Fund for the funding of the National Council on Climate Change and its activities.[44] Section 19 of the Act mandates the federal ministries in charge of environment and national planning to "set carbon budget for Nigeria, to keep average increases in global temperature within 2°C and pursue efforts to limit the temperature increase to l .5°C above pre-industrial levels"

The Act requires public and private entities to adopt measures calculated to achieve low GHG emission and enhance environmental sustainability. Private entities with 50 employees must formulate and apply measures for achieving the Action Plan's GHG emission reduction targets and appoint a climate change officer saddled with the responsibility of filing annual returns with the National Climate Change Secretariat. The Act also makes it possible for rights-based climate change litigation. Section 34 (2) of the Act grants a court before which a climate change or environmental matter is brought the power to make any of three orders namely:

(a) stopping, preventing, or discontinuing an act that is harmful to the environment;
(b) compelling any public officer to act to prevent or stop any act that is harmful to the environment; and

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[38] Ibid.
[39] Environmental Law Research Institute (ELRI), 'A Synopsis of Laws and Regulations on the Environment in Nigeria' <https://elri-ng.org/environmental-law-policies-in-nigeria/> accessed 1 March 2024
[40] (n 37)
[41] Ibid.
[42] Section 1 of the Act
[43] Section 4
[44] Section 15

(c) award of compensation to victims of acts that are harmful to the environment.

The implication of these provisions is that climate change harms are included in the justiciable causes of action under the Act.[45]

The National Environmental Standards and Regulations Enforcement Agency (NESREA's) National Environmental (Desertification Control and Drought Mitigation) Regulations 2011is another climate change-related instrument. It seeks to provide effective and pragmatic framework for the sustainable use of land area affected by desertification and the protection of vulnerable lands in Nigeria.[46] The Regulations also intends to sensitize the public on the causes and danger of desertification, encourage efficient and sustainable energy use as well as reforestation, afforestation, reseeding and rehabilitation of degraded and desertification prone land. The Regulations further aims at achieving at least 25% national forest cover.[47] Other highlights of the Regulations include the requirement of States and Local Governments

The Regulations mandates NESREA to collaborate with relevant ministries, departments, and agencies (MDAs) as well as with State and Local Governments to compile an inventory of already degraded land and desertification prone land with a view to adopting amelioration measures.[48] NESREA is required to encourage farmers to plant at least 25 trees per hectare.[49]

Other highlights of the Regulations include establishing the role of each State and Local Government affected or threatened by desertification. Each such State or Local Government is required to set yearly afforestation targets of at least 10 kilometres of shelterbelt and 5 hectares of woodlot, respectively[50] as well as set a yearly rangeland and reseeding targets of at least 25 hectares and 5 hectares, respectively.[51] Furthermore, NESREA is empowered to declare desertification threatened areas as specially protected areas and keep a register of such areas.[52] The Regulations restricts the activities permitted on a desertification prone land.[53] The agency, relevant MDA, State and Local Government are empowered to permit the carrying out of some of the regulated activities on desertification prone land subject to compliance with the Regulations.[54] However, a person who fells a tree in a desertification prone land in the course of such activities must plant fourfold the number of trees felled and ensure their survival.[55] Mining is prohibited on degraded or desertification threatened land.[56]

The Regulations also saddles the agency with the duty of ensuring that adequate measures are taken for the mitigation of the effects of droughts at occurrence.[57] The agency is required to monitor and enforce the policies contained in the National Drought Preparedness Plan and Drought and Desertification Policy of the Federal Ministry of Environment (2007).[58] It also bears the burden of organizing public sensitization campaigns with relevant partners on the dangers of drought and its mitigation measures.[59]

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[45] (n 37)
[46] Regulation 2 of the Regulations
[47] Ibid.
[48] Regulation 4 (1)
[49] Regulation 3 (f)
[50] Regulation 5 (2)
[51] Regulation 5 (3)
[52] Regulation 6 (1)
[53] The prohibited activities include cutting of trees/branches without permit, grazing, bush burning, agriculture without permit, grazing, earth disturbing activities, cultivation of marginal land, extraction of specific resources without permit and land clearing. See Regulation 7 (1)
[54] Regulations 7 (1) and 8 (1)
[55] Regulation 7 (2)
[56] Regulation 7 (3)
[57] Regulation 12 (a)
[58] Regulation 14 (1)
[59] Regulation 14 (2)

Notwithstanding the laudable principles contained in the Regulations, there are weaknesses which might make it difficult to achieve its purpose. First, the legal regime on land tenure in Nigeria vests control of land in the Governor of a State in trust for the benefit of all Nigerians.[60] This means that the implementation of the Regulations, particularly as they relate to the restrictions on land use, afforestation, reforestation, and reseeding depend on the cooperation of the Governors. Secondly, the Regulations focuses on tree planting to the detriment of faster growing plants like shrubs, grasses, and cover crops. It has been argued that the planting of cover crops and shrubs might be a quicker way of combating desertification than tree planting.[61] A study by the University of California, Davis suggests that grassland and rangeland are more effective in carbon sequestration than trees.[62] It is therefore suggested that the NESREA Regulations should place as much importance on grasses and shrubs as on trees. Another shortcoming of the NESREA Regulations is the low compliance level with the Regulations. According to a commentator, the enforcement of environmental regulations in Nigeria is hampered by poor resource allocation to the regulatory agencies, lack of political will and corruption among other impediments.[63]

3.2 Nigeria's International Climate Change Obligations

Nigeria has assumed many international obligations with regard to climate change. The major ones include the United Nations Framework Convention on Climate Change (UNFCCC), Kyoto Protocol and the Paris Agreement. The Kyoto Protocol had expired on 23 December, 2020. So, this paper would concentrate on the Paris Agreement and related instruments. The main goal of the Paris Agreement is to limit "the increase in the global average temperature to well below 2°C above pre-industrial levels" and attempt "to limit the temperature increase to 1.5°C above pre-industrial levels."[64]

Nigeria's Climate Change Act is Nigeria's attempt to give legal teeth to the Paris Agreement within its territory. In pursuance to its obligations under the Paris Agreement, Nigeria had submitted its action plan for achieving the goals of the Paris Agreement through its Nationally Determined Contributions (NDC) and Long-Term Low Greenhouse Gas Emission Development Strategies (LT-LEDS). In its 2021 updated NDCs, Nigeria committed to contribute unconditionally 20% below business-as-usual (BAU) emission levels and conditional 47% reduction by 2034 while in the (LT-LEDS), Nigeria envisions itself by 2050 as "a country of low-carbon, climate-resilient, high growth circular economy that reduces its current level of emissions by 50%, moving towards having net-zero emissions across all sectors of its development in a gender-responsive manner."[65]

Although the formulation and submission of NDCs are mandatory requirements of the Paris Agreement, the commitments made in the NDCs and (LT-LEDS) are mere aspirations and thus non-binding. The incorporation of the major climate change ambitions of the country in the Climate Change Act shows the seriousness with which Nigeria deals with its obligations to the international community under the Paris Agreement.

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[60] Section 1 Land Use Act, Cap. L5 LFN 2004

[61] A. E. Abuza, 'The law and policy on curbing desertification in Nigeria: A contemporary discourse' Journal for Juridical Science Vol. 42 No. 2 (2017) 65-103, University of the Free State, p. 99, <https://journals.ufs.ac.za/index.php/jjs/article/view/3378> accessed 13 August 2024

[62] Kat Kerlin, 'Grasslands More Reliable Carbon Sink Than Trees' UC Davis, <https://climatechange.ucdavis.edu/climate/news/grasslands-more-reliable-carbon-sink-than-trees >accessed 13 August 2024.

[63] (n 61)

[64] The United Nations, 'The Paris Agreement, what is the Paris Agreement' <https://unfccc.int/process-and-meetings/the-paris-agreement> accessed 20 March 2024

[65] Department of Climate Change, Federal Ministry of Environment, Nigeria, 2050 Long-Term Vision for Nigeria (LTV-2050) p. ii < https://unfccc.int/sites/default/files/resource/Nigeria_LTS1.pdf> accessed 3 March 2024

Closely linked to the Paris Agreement are Nigeria's environmental goals under the Sustainable Development Goals (SDGs). Nigeria considers its NDCs and (LT-LEDS) as instruments of achieving the SDGs.[66] Under Goal 13 of the SDGs, Nigeria undertakes to take action to mitigate climate change and it impacts. The attainment of the environmental goal of the SDGs is at the core of the resolution strategies of the farmers-herders conflict in Nigeria
In summary, the legal framework of climate change response in Nigeria comprises of the constitution, the Climate Change Act, other municipal statutes, judicial pronouncements, and international law.

4. CLIMATE JUSTICE MODELS APPLICABLE TO THE FARMERS-HERDERS CONFLICT:

The concept of climate justice is a relatively nascent term. According to the United Nations, it "is a term used for framing global warming as an ethical and political issue, rather than one that is purely environmental or physical in nature."[67] Friends of the Earth defines it as "finding solutions to the climate crisis that not only reduce emissions or protect the natural world, but that do so in a way which creates a fairer, more just and more equal world in the process."[68] It is "the principle that the benefits reaped from activities that cause climate change and the burdens of climate change impacts should be distributed fairly."[69] Climate justice advocates that the industrial countries who bear the most responsibility for activities that lead to climate change should also bear the most burden for its remediation. Conversely, less developed countries who contributed the least to climate change but are most affected by its effect should receive the most assistance in climate change management.[70] The impact of climate change is generally considered to be more severe on marginalized communities than on mainstream industrialized ones.[71] For the purpose of this paper, climate justice is a system of addressing climate change which recognizes and protects the interests of every group and individual especially the vulnerable ones. In practical terms, it implies preparing the vulnerable members of the society to be able to survive and recover from the impacts of climate change as much as the privileged class.

The hallmark of climate justice is inclusiveness. At all levels of climate change response, no one should be left behind As a subset of the wider concept of environmental justice, climate justice stands on two basic principles first, people and societies contributed unequally to climate change and are unevenly impacted by its outcomes and secondly that there should be fairness in the distribution of resources deployed to address it.[72] Theoretically, those

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[66] Ibid. p.12

[67]" Climate Justice" <https://leap.unep.org/en/knowledge/glossary/climate-justice#:~:text=Climate%20justice%20is%20a%20term,environmental%20or%20physical%20in%20nature>. Accessed 4 March 2024

[68] 'What is Climate Justice?' < https://groups.friendsoftheearth.uk/resources/whats-climate-justice#:~:text=Climate%20justice%20means%20finding%20solutions,equal%20world%20in%20the%20process.> Accessed 4 March 2024

[69] M.I.T, 'Explainer-Climate Justice'< https://climate.mit.edu/explainers/climate-justice> accessed August 12, 2024

[70] International Bar Association. (2014). Climate Change Justice and Human Rights Task Force Report. Achieving Justice and Human Rights in an Era of Climate Disruption, p. 46 cited in Giada Giacomini, Indigenous Peoples and Climate Justice: A Critical Analysis of International Human Rights Law and Governance, Springer Nature Switzerland p. 30 (2022)

[71] Giada Giacomini, 'Indigenous Peoples and Climate Justice: A Critical Analysis of International Human Rights Law and Governance' Springer Nature Switzerland, p. 29 (2022)

[72] United States Environmental Protection Agency (EPA), 'Climate Equity' <https://www.epa.gov/climateimpacts/climate-equity#:~:text=Climate%20Equity%20and%20Environmental%20Justice,a%20cornerstone%20of%20EPA's%20mission.> Accessed 4 March 2024

that contributed more to climate change should contribute more to its mitigation while those most impacted by climate change should receive the most benefit of the resources and efforts allocated to its remediation.

In the context of the farmers-herders situation in Nigeria, this paper has identified some models of climate justice that are relevant in resolving the conflict. Because of the complex peculiarities of the conflict this paper does not accept the binary presentation of the conflict in a perpetrator-victim dichotomy. The paper locates all the parties to the conflict in a unipolar world of victims of a changing world which no longer supports their accustomed ways of life and occupations. It therefore becomes incumbent on the state to assist them to adapt to the new environmental realities in order to avoid extinction. The rest of this paper is devoted to a discourse of the models of climate justice adaptable to addressing the farmers-herders conflict in Nigeria.

4.1 Distributive Justice

At the heart of the farmers-herders conflict in Nigeria is the question of resource allocation especially land and water. This throws up salient concerns of distributive justice. Distributive justice concerns itself with the moral imperative of fairness in the distribution of benefits and burdens in the society.[73] Distributive justice is mounted on a tripod of equality, proportionality, and fairness.[74] Equality or strict egalitarianism which emphasizes equality of benefits and burdens among competing groups in the society may seem a simple and straight forward option, but it is not suitable to the context of the farmers-herders conflict. One reason for the unsuitability of strict egalitarianism is the inequality of the challenges faced by the different classes of victims. Interest identification and articulation is a precondition to adequate resource distribution. A cursory analysis of the needs of the victim of the conflict would indicate a divergence of wants and remedies.

This paper advocates an amalgam of the proportionality and fairness principles. These principles are more utilitarian and moral than strict equality. The application of the proportionality principle would ensure that the felt needs of each party are identified and addressed. It is a close relative of the old socialist cliché of "from each according to his ability and to each according to his needs."[75]

It is the view of this paper that sharing social benefits and burdens to each party in the proportion in which he stands in need of or capable of bearing as the case may be would yield a more utilitarian outcome of maximizing positive outcomes than a mechanical equality. Thus, in implementing the NLTP, the state should resist the temptation of overindulging one side to the detriment and resentment of the other. It is easy to achieve sustainable peace when all parties to dispute are convinced with evidence that they got a fair deal.

The paper suggests a distributive justice scheme in which polluters are made to pay for their emissions and the proceeds are applied to the amelioration of the effects of the pollution.[76] This would involve the introduction of carbon credits and carbon taxes. Under this scheme, producers of fossil fuels and their users should be assigned a maximum quantity of the fuel they can produce or use. Taxes should be imposed on any production or consumption beyond the approved limit. The proceeds of the tax should then be applied to mitigating the effect of

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[73] Samuel Freeman, 'Rawls on Distributive Justice and the Difference Principle', Liberalism and Distributive Justice (New York, 2018; online edn, Oxford Academic, 19 July 2018), <https://doi.org/10.1093/oso/9780190699260.003.0004> Accessed 6 March 2024.

[74] Ibid.

[75] Williams, H. 'The Political Philosophies of Kant and Marx.' (2017) Kantian Review, 22(4), 619-640. doi:10.1017/S1369415417000309 accessed 4 March 2024

[76] Shue, H. (1999). 'Global environment and international inequality' International Affairs*, 75*, 531–535.

climate change particularly among the least well-off victims of climate change.[77] In the content of the farmers-herders conflict, a significant proportion of the carbon taxes should be applied to land reclamation projects like pasture growing and ranch development. The advantages of the carbon tax scheme include disincentivizing fossil fuel production and availability of government revenues for investment in eco-friendly and renewable energy projects.

4.2 Transformative Justice

Transformative justice is a political framework for managing violence, harm and abuse by using the state of violence as an agent of positive societal change.[78] Transformative justice seeks to leverage on the experiences garnered from a conflict to transform society to a peaceful and prosperous place.[79] Transformative justice operates on the "never again" principle in which a society makes conscious and determined effort not to repeat their past conflict experiences. Transformative justice does not necessarily rely on the formal apparatus of the state like law enforcement and the judiciary. Rather it employs the power of persuasion of respected non-state structures.[80]

In the case of the farmers-herders conflict in Nigeria, the peacebuilding and reconciliation components of the NLTP should be vigorously pursued to foster a reconciliation between the two rival parties. Government should contract out this aspect of the NLTP to civil society and aid groups to engage both sides and sensitize them on the dangers of holding onto hard positions and mutual grudges. The two sides should commit to not return to belligerency and resolve all future disputes through pacifist methods only. Emphasis must be laid on the futility of violence as a sustainable dispute resolution mechanism.

Both sides should be encouraged to adapt to new arrangements where they can co-exist within the principles of the NLTP. For starters, the state must disarm the herders and community militias in exchange for satisfactory and effective guarantees of their security and safety. nomadism must be restricted to the confines of the ranches and settlements to be provided under the NLTP. Crop farmers on their own part should be made to accept the inevitability of the settlement of the herders in government-provided ranches as a solution to their incessant clashes. This presupposes that farmers' trespassing on grazing ranches shall cease. The state should pay adequate compensation for the compulsory acquisition of all land for the purpose of the NLTP. The end result of all efforts in tackling the conflict should be that on no account shall the society witness a recurrence of the conflict.

4.3 Restorative Justice

Unlike transformative justice which seeks to use a conflict as a springboard for social change, restorative justice attempts to restore the status quo ante bellum. While transformative justice looks to the future, restorative justice seeks to recover what was lost in the past.[81] In the case of the farmers-herders crisis restorative justice is relevant in addressing the environmental dimension of the conflict.

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[77] de Vries A. and others, 'Distributive Justice. In: Justice in Climate Policy' Research for Policy (2024), Springer, Cham. <https://doi.org/10.1007/978-3-031-59427-4_2> accessed 13 August 2024

[78] Ruti G Teitel, 'Transitional Justice Genealogy' Harvard Human Rights Journal <https://harvardhrj.com> accessed 4 March 2024

[79] Wendy Lambourne, 'Transformative Justice, Reconciliation and Peacebuilding' in (Susanne Buckley-Zistel, Teresa Coloma Beck, Christian Braun, Friedrieke Mieth (Eds) Transitional Justice Theories (Oxon: Routledge 2014)19- 39.

[80] Ibid.

[81] Howard Zehr, 'Restorative or transformative justice?' Zehr Institute for Restorative Justice <https://emu.edu/now/restorative-justice/2011/03/10/restorative-or-transformative-justice/#:~:text=Restorative%20justice%20may%20be%20too,unattainable%2C%20undesirable%20or%20never%20existe accessed 5 March 2024

As stated earlier, environmental degradation contributes to the farmers-herders conflict both as causal agent and as a threat multiplier. This paper suggests the completion of ongoing environmental restoration projects. The two most consequential of these projects relative to the conflict are the Great Green Wall and the Recharging of the Lake Chad. The paper will be quick to acknowledge that the sheer enormity of the effort and resources required to recharge the Lake Chad is beyond the capacity of Nigeria and the member states of the Lake Chad Basin Commission.[82] A realistic discussion of the recharging of the Lake Chad can only take place in the face of guarantees of funding and technical support from the major GHG emitters. Thus, the effort of the Lake Chad Basin Commission should be to sustain a campaign for support for the project. While the Lake Chad project when viewed from a pragmatic perspective is a long-term project, the Great Green Wall is amenable to short term achievement.

The Great Green Wall is a Pan-African environmental restoration and management project designed to meet the ecological needs of the communities involved. It features among other things tree planting across thousands of environmentally degraded communities totalling about 8,000 km in length spread over 22 African countries from Senegal to Djibouti.[83] The goals of the Great Green Wall include such ambitious feats as the restoration of 100 million hectares of degraded land for agricultural use and sequestration of 250 tons of carbon by 2030.[84] In Nigeria alone, some estimates project that on completion, the Great Green Wall will see to the restoration of about 22,500 km^2 of degraded land in the dry region of the country for agricultural activities and improved living conditions of 25 million people by 2030.[85]

Nigeria has demonstrated commitment to the Great Green Wall project through the establishment of structures dedicated to its realization like the National Agency for the Great Green Wall (NAGGW) and its governing council. However, more needs to be done to attract the needed funding and support for the actualization of the lofty dreams of the project which has the potential to effectively bring the menace of the farmers-herders conflict under control and restore the harmony that the farming and herding communities once enjoyed.

5. CONCLUSION

This paper set out to identify the forms of climate justice that can be adapted for the resolution of the farmers-herders conflict in Nigeria. The paper found that the conflict is complex and climate change is one of its contributory factors. The paper further examined the legal framework for combating climate change in Nigeria and found that the country has a robust set of laws both municipal and international that can be deployed towards bringing the conflict to an end. The paper advocates the implementation of the legal framework especially the NLTP in a way that would ensure that all sides to the conflict receive a fair deal. The paper identified the theoretical principles of proportionality and utilitarianism as the models of distributive justice most suitable for the farmers-herders situation. It was also urged that the NLTP, and the Great Green World Wall project could be executed in restorative and transformative justice contexts that would not only spare the society a return to the horrors of the conflict but would assist the parties to use their conflict experiences as building blocks in transforming their communities to peaceful, productive and secure settings for shared prosperity.

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[82] Premium Times, 'Nigeria, Chad seek $50 billion to recharge shrinking Lake Chad' <https://www.premiumtimesng.com/news/more-news/221952-nigeria-chad-seek-50-billion-recharge-shrinking-lake-chad.html> accessed 5 March 2024

[83] United Nations Convention to Combat Desertification, 'Great Green Wall Initiative', <https://www.unccd.int/our-work/ggwi> accessed 5 March 2024

[84] Ibid.

[85] The Globe Legislators Organization, 'The Great Green Wall Experience in Nigeria' <https://gef6.globelegislators.org/nigeria/the-great-green-wall-experience-in-nigeria#:~:text=Key%20Information&text=22%2C500sqkm%20of%20degraded%20land,2030%2C%20through%20the%20GGW%20initiative>. Accessed 5 March 2024