

# ALIGNING AFRICA'S PUBLIC HEALTH AND FOOD SAFETY LAWS TO AGENDA 2063.

Jane Ezirigwe.\*

## 1.0 Introduction

Public health law comprises the laws, policies and administrative procedures that empower, obligate and constrain government and private actions concerning the general health of the population.<sup>1</sup> These laws provide the underlying authority to act, penalise defaulting acts and impact on public health outcomes. Policies and administrative procedures guide decisions during disease outbreaks for disease reporting, surveillance, quarantine, social distancing, import of medical supplies and personnel, as well as vector control.<sup>2</sup> With public health law, the rights of individuals and businesses may be constricted, so as to protect community interests in health.

One important aspect of public health law is food safety law. Food safety laws are laws that regulate handling, preparation and storage of food by the food and drink industry, in ways that prevent food borne diseases and ensure public safety. Food safety laws comprise regulations on standardizing production processes of food & drinks by manufacturing companies. This would help prevent adulterated and substandard products. Secondly, they drive policies that discourage bad preservation methods of farm produces which expose the public to infectious disease outbreaks. This is achieved through Good Agricultural Practices (GAP), Good Hygiene Practices (GHP) and Hazard Analysis and Critical Control Point (HACCP) based management systems. Lastly, they integrate laws and policies that regulate the hygiene of fast food outlets and the informal sector engaged in sale of fast and street food respectively, that could lead to food borne diseases.

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\*LLB (Hons.) Abuja, LLM (London), MBA (EBS), *Research Fellow, Nigerian Institute of Advanced Legal Studies. Doctoral Scholar, University of Cape Town, South Africa.* email: ezirigwejane@gmail.com

<sup>1</sup> Géraldine Marks-Sultan Bulletin of the World Health Organization 2016;94:534-539.

doi: <http://dx.doi.org/10.2471/BLT.15.164749>; Lawrence O. Gostin, Public Health Theory and Practice in the Constitutional Design, 11 Health Matrix 265 (2001) Available at:

<http://scholarlycommons.law.case.edu/healthmatrix/vol11/iss2/4> p266

<sup>2</sup> Géraldine Marks-Sultan Bulletin of the World Health Organization 2016;94:534-539.

doi: <http://dx.doi.org/10.2471/BLT.15.164749>

Food borne disease is undoubtedly a public health problem.<sup>3</sup> Today, food borne disease is a leading cause of death and illness in Africa and is poised to be a considerable burden on Africa's public health.<sup>4</sup> More than 91million Africans fall ill due to food borne diseases in a year.<sup>5</sup> These could be attributed to poor and ineffective food safety regulations in Africa as well as poor enforcement regimes. In a region where food insecurity, political instability, communicable diseases and natural disasters are rampant, food safety is of critical importance because of its aggravating impact over the above listed concerns.<sup>6</sup> Persons suffering from diseases such as HIV/AIDS, tuberculosis, malaria, and other various ailments affecting the region are at a greater risk to be debilitated by unsafe food, as their immune systems are already compromised.<sup>7</sup>

In addition, there is a close link between food safety and the deadly outbreaks of Ebola and Lassa fever in the region. The Lassa virus can be transmitted to humans via contact with food items sullied with rodent urine or faeces.<sup>8</sup> This is a grave concern in West Africa, where food processors sun dry and expose food items to rodents and other animals. In areas where food production is exigent, wildlife, including, fruit bats and primates are hunted for subsistence purposes and bush meat consumption.<sup>9</sup> The Ebola virus had been contacted from the meat of hunted two species of bat-*Hypsignatus monstrosus* and *Epomops franqueti*, which are both

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<sup>3</sup> Estimating the Global Burden of Foodborne Diseases, WHO Brochure, [http://www.who.int/foodsafety/foodborne\\_disease/Brochure.pdf](http://www.who.int/foodsafety/foodborne_disease/Brochure.pdf) accessed 23 June, 2018

<sup>4</sup> WHO's first ever global estimates of foodborne diseases find children under 5 account for almost one third of deaths, WHO News Release, 3 December 2015, <http://www.who.int/news-room/detail/03-12-2015-who-s-first-ever-global-estimates-of-foodborne-diseases-find-children-under-5-account-for-almost-one-third-of-deaths>, accessed 23 June, 2018

<sup>5</sup> WHO's first ever global estimates of foodborne diseases find children under 5 account for almost one third of deaths, WHO News Release, 3 December 2015, <http://www.who.int/news-room/detail/03-12-2015-who-s-first-ever-global-estimates-of-foodborne-diseases-find-children-under-5-account-for-almost-one-third-of-deaths>, accessed 23 June, 2018

<sup>6</sup> FAO/WHO Regional Conference on Food Safety for Africa Harare, Zimbabwe, 3-6 October 2005 National Food Safety Systems In Africa – A Situation Analysis (Paper prepared by FAO Regional Office for Africa, Accra, Ghana) p1 [http://www.afro.who.int/sites/default/files/2017-06/fao\\_who\\_conf\\_national\\_food\\_safety\\_africa.pdf](http://www.afro.who.int/sites/default/files/2017-06/fao_who_conf_national_food_safety_africa.pdf)

<sup>7</sup> FAO/WHO Regional Conference on Food Safety for Africa Harare, Zimbabwe, 3-6 October 2005 National Food Safety Systems In Africa – A Situation Analysis (Paper Prepared By FAO Regional Office For Africa, Accra, Ghana) p1; RECOMMENDATIONS For the Missions, Functions and Structure of African Union Food Safety Authority and a Rapid Alert System for Food and Feed, [file:///C:/Users/PC/Downloads/doc\\_20150320\\_proposal\\_establishment\\_aufsmcm\\_arb\\_en.pdf](file:///C:/Users/PC/Downloads/doc_20150320_proposal_establishment_aufsmcm_arb_en.pdf) P7

<sup>8</sup> Lassa fever: Key facts, WHO Fact sheet, 31 July 2017 <http://www.who.int/news-room/fact-sheets/detail/lassa-fever>

<sup>9</sup> Omoleke, S. A., Mohammed, I., & Saidu, Y. (2016). Ebola Viral Disease in West Africa: A Threat to Global Health, Economy and Political Stability. *Journal of Public Health in Africa*, 7(1), 534. <http://doi.org/10.4081/jphia.2016.534>

reservoir species for Ebola viruses in Guinea.<sup>10</sup> It has been alleged that it is safe to consume such food products that are properly prepared and cooked as Ebola virus is inactivated by thorough cooking.<sup>11</sup> Ebola virus can be inactivated by thorough cooking of food products with core temperature reaching at least 70°C.

Bearing in mind the African Union's Agenda 2063,<sup>12</sup> aspirations for a prosperous Africa, based on inclusive growth and sustainable development and its specific goal on healthy and well-nourished citizens, this paper adopts 'the rule of law theory' as its theoretical framework to examine the region's efforts in curbing food borne diseases in Africa. The rule of law is an 'essentially contested concept'.<sup>13</sup> It includes systems of rules and regulations, the norms that infuse them, and the means of adjudicating and enforcing them.<sup>14</sup> The rule of law is influenced by norms such equality before the law; just processes and just outcomes; as well as equal access.<sup>15</sup> It encompasses a number of principles of a formal and procedural character, directing the manner in which a society is governed.<sup>16</sup>

The rule of law also requires that citizens should respect and observe legal rules, even in situations where they disagree with the rules. Where citizen's interests conflict with others, they should accept legal determinations of what their rights and duties are, as determined by formal

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<sup>10</sup> Omoleke, S. A., Mohammed, I., & Saidu, Y. (2016). Ebola Viral Disease in West Africa: A Threat to Global Health, Economy and Political Stability. *Journal of Public Health in Africa*, 7(1), 534.  
<http://doi.org/10.4081/jphia.2016.534>

<sup>11</sup> Dr. Ivan Chong, Food Safety Focus (98th Issue, September 2014) – Incident in Focus, Ebola Virus Disease and Food safety. [http://www.cfs.gov.hk/english/multimedia/multimedia\\_pub/multimedia\\_pub\\_fsf\\_98\\_01.html](http://www.cfs.gov.hk/english/multimedia/multimedia_pub/multimedia_pub_fsf_98_01.html) accessed 15 June 2018

<sup>12</sup> Agenda 2063 is a strategic framework for the socio-economic transformation of the continent over the next 50 years. Its builds on, and seeks to accelerate the implementation of past and existing continental initiatives for growth and sustainable development. See <https://au.int/en/agenda2063>

<sup>13</sup> Daniel B Rodriguez and Mathew D McCubbins, and Barry R. Weingast, 'The Rule Of Law Unplugged' (2010) *Emory Law Journal* 1455-1494, 1464

<sup>14</sup> Louis-Alexandre Berg and Deval Desai, Background Paper: Overview on the Rule of Law and Sustainable Development for the Global Dialogue on Rule of Law and the Post-2015 Development Agenda <http://www.undp.org/content/dam/undp/library/Democratic%20Governance/Access%20to%20Justice%20and%20Rule%20of%20Law/Global%20Dialogue%20Background%20Paper%20-%20Rule%20of%20Law%20and%20Sustainable%20Developme....pdf> Accessed 14 June, 2018

<sup>15</sup> Louis-Alexandre Berg and Deval Desai, Background Paper: Overview on the Rule of Law and Sustainable Development for the Global Dialogue on Rule of Law and the Post-2015 Development Agenda <http://www.undp.org/content/dam/undp/library/Democratic%20Governance/Access%20to%20Justice%20and%20Rule%20of%20Law/Global%20Dialogue%20Background%20Paper%20-%20Rule%20of%20Law%20and%20Sustainable%20Developme....pdf>

<sup>16</sup> 'The Rule of Law' <<https://plato.stanford.edu/entries/rule-of-law/>> accessed 20 April 2017

authorities.<sup>17</sup> Under the rule of law, prescribed laws should be consistent with international human rights norms and standards.<sup>18</sup> Bolstered rule of law is critical for achieving the health outcomes of Agenda 2063 and other global and regional health frameworks in Africa. It is fundamental in adopting comprehensive laws and policies and for empowering the poor and marginalized through a greater awareness and realization of their rights and needs.<sup>19</sup> The law and justice sector plays a significant role in any challenges in the health systems.<sup>20</sup> States need explicit powers to regulate production, marketing and sales of unhealthy foods and beverages.<sup>21</sup> A functioning criminal justice sector is essential to curtailing the flood of contaminated, adulterated and substandard food across the African continent.<sup>22</sup>

The above notions and roles of the rule of law will guide discussions below. First, it will be adopted in examining the food safety regulations in the regional and national efforts to determine if they are consistent with human rights norms and standards. Secondly, the requirement that citizens observe legal rules will be used to determine whether the laws on food safety in Africa are obeyed. Thirdly, it would be used to assess the laws for their generality<sup>23</sup>, publicity,<sup>24</sup> understandability,<sup>25</sup> consistency,<sup>26</sup> stability,<sup>27</sup> and congruence.<sup>28</sup> These qualities that a good law

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<sup>17</sup> 'The Rule of Law' <<https://plato.stanford.edu/entries/rule-of-law/>> accessed 20 April 2017

<sup>18</sup> U.N. Secretary-General, 'The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies: Report of the Secretary-General' 4 U.N. Doc. S/2004/616

<sup>19</sup> Doing Justice To Sustainable Development Integrating The Rule Of Law Into The Post-2015 Development Agenda (2014)  
<https://www.idlo.int/sites/default/files/pdfs/publications/Doing%20Justice%20to%20Sustainable%20Development.pdf> p5

<sup>20</sup> Achieving The 2030 Agenda And Agenda 2063: The Rule Of Law As A Driver Of Africa's Sustainable Development June 1-2, 2016 Hyatt Regency Dar es Salaam, The Kilimanjaro Dar es Salaam, United Republic of Tanzania Equality and empowerment through access to justice: views on health Background Paper  
<https://www.idlo.int/sites/default/files/pdfs/events/Africa-RuleofLaw-Background-paper-accessjustice-health.pdf> P2

<sup>21</sup> Achieving The 2030 Agenda And Agenda 2063: The Rule Of Law As A Driver Of Africa's Sustainable Development June 1-2, 2016 Hyatt Regency Dar es Salaam, The Kilimanjaro Dar es Salaam, United Republic of Tanzania Equality and empowerment through access to justice: views on health Background Paper  
<https://www.idlo.int/sites/default/files/pdfs/events/Africa-RuleofLaw-Background-paper-accessjustice-health.pdf> P3

<sup>22</sup> Achieving The 2030 Agenda And Agenda 2063: The Rule Of Law As A Driver Of Africa's Sustainable Development June 1-2, 2016 Hyatt Regency Dar es Salaam, The Kilimanjaro Dar es Salaam, United Republic of Tanzania Equality and empowerment through access to justice: views on health Background Paper  
<https://www.idlo.int/sites/default/files/pdfs/events/Africa-RuleofLaw-Background-paper-accessjustice-health.pdf> P3

<sup>23</sup> Here, the expectations of conduct are stated in rules widely applicable and impartially applied.

<sup>24</sup> This requires that legal decision makers make available to the public the rules to be observed.

<sup>25</sup> Otherwise called clarity

<sup>26</sup> No contradictory rules;

should possess will be used in analyzing the laws to determine their effectiveness in regulating the sector. Lastly, the rule of law, through the principles of equality and equity prioritizes those who are being left behind.<sup>29</sup> This perspective of the rule of law will be employed in discussing regulation of the informal sector.<sup>30</sup>

After this introduction, section two deliberates on aligning Africa's Public health to agenda 2063 with a particular focus on food safety. This will entail discussions on incidents of food borne disease outbreaks, infectious diseases associated with unsafe food handling and the effect of these to Africa's public health and economy. Section three discusses regional and national efforts to ensure food safety. It examines the existence of food control systems in African countries and determines whether the national food legislations are in line with international requirements. Section four debates on the challenges encountered in regulating food safety in Africa, with a focus on balancing public safety and food insecurity in Africa as well as proposes some measures that will help in promoting food safety and invariably public health in Africa. The last section is on concluding remarks.

## **2.0 Aligning Agenda 2063 to Africa's Public health**

This section discusses the relevant provisions of Agenda 2063 on public health, with a focus on food safety. It reports incidents of food borne disease outbreaks and infectious diseases associated with unsafe food handling in Africa, to show the extent to which the provisions of the agenda should align with the reality. It concludes with the effect of these to Africa's public health and economy.

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<sup>27</sup> So that rules do not change so frequently that parties cannot adequately determine what is expected of their actions and inactions;

<sup>28</sup> See Daniel B Rodriguez and Mathew D McCubbins, and Barry R. Weingast, 'The Rule Of Law Unplugged' (2010) Emory Law Journal 1455-1494, 1464

<sup>29</sup> Doing Justice To Sustainable Development Integrating The Rule Of Law Into The Post-2015 Development Agenda (2014)  
[https://www.idlo.int/sites/default/files/pdfs/publications/Doing%20Justice%20to%20Sustainable%20Development.p](https://www.idlo.int/sites/default/files/pdfs/publications/Doing%20Justice%20to%20Sustainable%20Development.pdf)  
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<sup>30</sup> Doing Justice To Sustainable Development Integrating The Rule Of Law Into The Post-2015 Development Agenda (2014)  
<https://www.idlo.int/sites/default/files/pdfs/publications/Doing%20Justice%20to%20Sustainable%20Development.p>  
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The first aspiration of Agenda 2063 is for a prosperous Africa based on inclusive growth and sustainable development. Paragraph 10 of the Agenda aspires that by 2063, Africa shall be a prosperous continent, with the means and resources to drive its own development, with sustainable and long-term stewardship of its resources and where, amongst others:

- African people have a high standard of living and quality of life, sound health and well-being;
- Modern agriculture for increased production, productivity and value addition contributes to farmer and national prosperity and Africa's collective food security; and
- Africa's unique natural endowments, its environment and ecosystems, including its wildlife and wild lands are healthy, valued and protected, with climate resilient economies and communities.<sup>31</sup>

Under paragraph 11, the Agenda aspires that by 2063, African countries will be amongst the best performers in global quality of life measures. This will be attained through strategies of inclusive growth, job creation, increasing agricultural production; investments in science, technology, research and innovation; gender equality, youth empowerment and the provision of basic services including health, nutrition, education, shelter, water and sanitation.

Food safety is an essential part of achieving good nutrition, sound health and a high quality of life. In order to achieve these, the legal and regulatory regimes of most African countries on food safety need to be revamped and strengthened. This is because the incidents of food borne disease outbreaks are alarming. Every day, over 1,300 children die due to diarrhea diseases, caused by contaminated food and water, most of them African children.<sup>32</sup> Diarrhea is a type of foodborne disease. Food borne diseases comprise a wide collection of illnesses caused by ingestion of

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<sup>31</sup> See paragraph 10 of Agenda 2063.

<sup>32</sup> WHO's first ever global estimates of foodborne diseases find children under 5 account for almost one third of deaths, WHO News Release, 3 December 2015, <http://www.who.int/news-room/detail/03-12-2015-who-s-first-ever-global-estimates-of-foodborne-diseases-find-children-under-5-account-for-almost-one-third-of-deaths>, accessed 23 June, 2018

contaminated food or beverage.<sup>33</sup> Contamination typically occurs during food preparation or proportioning but could occur at any point from farm to fork.<sup>34</sup>

### ***Evidence from West and East Africa***

Several studies and reports have narrated incidents of foodborne disease outbreaks in these regions. In Nigeria, there is currently an outbreak of cholera disease, transmitted through infected water, with about 5,607 persons already affected.<sup>35</sup> This has resulted in death of several persons in eight states of Nigeria.<sup>36</sup> In 2017, in a settlement predominantly inhabited by Fulani herdsmen, gastroenteritis, a diarrheic ailment triggered by zoonotic bacteria, was identified as the cause of 62 deaths in Yagba West, Kogi state.<sup>37</sup> There was also a report of food poisoning caused by toxic metals in Zamfara state which resulted to the death of numerous infants and children.<sup>38</sup>

In Ghana, on the 30<sup>th</sup> October, 2017, it was reported that over 50 students of the Ghana Senior High School in Koforidua were admitted for treatment at the St. Joseph's Hospital, arising from a food poisoning episode.<sup>39</sup> The Ghana Web, a media house had reported a suspicion of the 'Jack and Jill biscuits' being poisonous in 2017.<sup>40</sup> A study in Ghana recounted a foodborne disease outbreak associated to food items of "waakye" and "shitor", consumed from a popular

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<sup>33</sup> Gabida, M., Gombe, N. T., Chemhuru, M., Takundwa, L., Bangure, D., & Tshimanga, M. (2015). Foodborne illness among factory workers, Gweru, Zimbabwe, 2012: a retrospective cohort study. *BMC Research Notes*, 8, 493. <http://doi.org/10.1186/s13104-015-1512-2>

<sup>34</sup> **Donne Kofi Ameme et al.** *Foodborne disease outbreak in a resource-limited setting: a tale of missed opportunities and implications for response.* *The Pan African Medical Journal*. 2016;23:69. doi:10.11604/pamj.2016.23.69.7660

<sup>35</sup> Cholera Outbreak in Nigeria: NCDC Situation Report (29 May 2018). <https://reliefweb.int/report/nigeria/cholera-outbreak-nigeria-ncdc-situation-report-29-may-2018>

<sup>36</sup> Cholera Outbreak: Mubi Records 434 Cases, 13 Deaths, This Day Online, May 27, 2018, <https://www.thisdaylive.com/index.php/2018/05/27/cholera-outbreak-mubi-records-434-cases-13-deaths/>, Cholera Outbreak in Nigeria: NCDC Situation Report (29 May 2018).

<sup>37</sup> Olatunji Ololade, 'Dangerous meat, toxic waters 3: Nigerians die from 'food poisoning' *The Nation* (26 August 2017) <<http://thenationonlineng.net/dangerous-meat-toxic-waters-3-nigerians-die-food-poisoning/>> accessed 15 October 2017

<sup>38</sup> N Pepple, 'Environment and Food Poisoning: Food Safety Knowledge and Practice among Food Vendors in Garki, Abuja – Nigeria' (2017) 5: 217 *J Health Educ Res Dev*. doi: 10.4172/2380-5439.100021.

<sup>39</sup> Paa Kwesi Coleman, Food-borne illness kill 230,000 people annually: protect yourself and your family, 17 November 2017, <https://www.modernghana.com/news/817176/food-borne-illness-kill-230000-people-annually-protect-you.html>

<sup>40</sup> Enoch Yeleliere, Samuel Jerry Cobbina and Zarouk Imoro Abubakari, Review of microbial food contamination and food hygiene in selected capital cities of Ghana *Cogent Food & Agriculture* (2017), 3: 1395102, <https://www.tandfonline.com/doi/pdf/10.1080/23311932.2017.1395102> p 4

community food joint.<sup>41</sup> These are popular Ghanaian dishes of boiled rice and beans, usually eaten with locally prepared pepper sauce.

In Kenya, a study in 2018 reported that ready-to-eat chicken were contaminated with bacteria such as E.coli, salmonella, staphylococcus, enterobacteriaceae and coliforms and tested positive to sodium metabisulphite, a preservative that scientists allege causes cancer if consumed in large amounts.<sup>42</sup> Another study in Kenya in 2017 revealed that compliance with food handling practices and health measures as laid out in the Public Health Act Cap 242 and the Food, Drugs and Chemical Substances Act Cap 254 of Kenya was not satisfactory.<sup>43</sup> Consequently, food borne illnesses and food handling practices are still a major threat to public health in Embu Municipality, the place of the study.<sup>44</sup>

### *Evidence from Southern and Central Africa*

In South Africa, between the end of 2017 and 2018, about 1,000 persons have been infected and over 200<sup>45</sup> persons have died as a result of a widespread outbreak of *Listeria monocytogenes*. The source of the outbreak has been linked to contaminated meats from Tiger Foods.<sup>46</sup> This outbreak has been described as the world's worst recorded listeria outbreak.<sup>47</sup> In Zimbabwe, there was a reported study suggesting that a food borne disease outbreak of food poisoning due

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<sup>41</sup> Donne Kofi Ameme et al. Foodborne disease outbreak in a resource-limited setting: a tale of missed opportunities and implications for response. The Pan African Medical Journal. 2016;23:69. doi:10.11604/pamj.2016.23.69.7660

<sup>42</sup> Jacqueline Kubania, Food on sale filthy and contains poisons, Daily Nation MARCH 4 2018, <https://www.nation.co.ke/news/How-the-food-you-eat-exposes-you-to-diseases/1056-4328562-138816m/index.html>

<sup>43</sup> Kariuki JG and Orago SS, Food handling practices and the prevalence of food borne pathogens among food handlers in Embu municipality, Kenya, International Journal of Applied Research 2017; 3(1): 697-698, p698

<sup>44</sup> Kariuki JG and Orago SS, Food handling practices and the prevalence of food borne pathogens among food handlers in Embu municipality, Kenya, International Journal of Applied Research 2017; 3(1): 697-698, p698

<sup>45</sup> *Listeria* contaminated food kills 200 in South Africa, including 80 babies, The Telegraph 18 May 2018. <https://www.telegraph.co.uk/news/2018/05/18/listeria-contaminated-food-kills-200-south-africa-including/>

<sup>46</sup> Deadly listeria outbreak is food-borne: Motsoaledi, SOUTH AFRICA, Tuesday 5 December 2017, <https://www.enca.com/south-africa/557-cases-36-dead-in-listeria-outbreak>; Kate Kelland, Deadly listeria could herald tighter food safety rules in South Africa, Health News, March 16, 2018. <https://www.reuters.com/article/us-safrica-listeria-who/deadly-listeria-could-herald-tighter-food-safety-rules-in-south-africa-idUSKCN1GS1AR;>

<sup>47</sup> Kate Kelland, Deadly listeria could herald tighter food safety rules in South Africa, Health News, March 16, 2018. <https://www.reuters.com/article/us-safrica-listeria-who/deadly-listeria-could-herald-tighter-food-safety-rules-in-south-africa-idUSKCN1GS1AR>

to staphylococcus intoxication was got from chicken served for lunch in December, 2016.<sup>48</sup> In Zambia, there was a report of a foodborne disease outbreak as a result of contaminated food served at dinner and consumed by students at a college in Lusaka on 19 March, 2017.<sup>49</sup> These several incidents of food borne disease outbreaks highlight the need to for effective regional and national food safety laws and programmes.

The effect of these food borne outbreaks is enormous on the health, health systems and the economy of Africans and African states respectively. Stunted growth and high mortality rate are recorded for children under 5years.<sup>50</sup> Preventable additional burden is imposed on healthcare systems across Africa.<sup>51</sup> The loss of productive hours reduce economic productivity. In addition, ineffective regulatory regimes and the subsequent non-compliance to food safety procedures result to low buyer and investor confidence. It also leads to rejection of African products at regional and international markets leading to loss of income<sup>52</sup> and subsequently, perpetuating poverty in Africa.

### **3.0 Regional and National efforts to ensure food safety in Africa**

Food safety is a shared responsibility. It starts with the existence of extant laws, a strong regulatory regime, an enhanced institutional capacity building to ensure enforcement as well as an intensified education of the public. The provisions of the law will act as an intervention tool or as a barrier to action.<sup>53</sup> Although the existence of laws is not sufficient in effective legal interventions, it is clear that the specific provisions of the law and the mode of enforcement

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<sup>48</sup> Sithole, Z., Juru, T., Chonzi, P., Bangure, D., Shambira, G., Gombe, N. T., & Tshimanga, M. (2017). Food borne illness amongst health care workers, at a Central Hospital, Harare, Zimbabwe, 2016: a retrospective cohort study. *BMC Research Notes*, 10, 715. <http://doi.org/10.1186/s13104-017-3030-x>

<sup>49</sup> Fred Kapaya et al, A foodborne disease outbreak investigation experience in a College in Lusaka, Zambia, 2017, *The Pan African Medical Journal*. 2018; 29:100. [doi:10.11604/pamj.2018.29.100.14737](https://doi.org/10.11604/pamj.2018.29.100.14737)

<sup>50</sup> FAO, IFAD, UNICEF, WFP and WHO. 2017. *The State of Food Security and Nutrition in the World 2017. Building resilience for peace and food security*. Rome, FAO p17

<sup>51</sup> RECOMMENDATIONS For the Missions, Functions and Structure of African Union Food Safety Authority and a Rapid Alert System for Food and Feed,

[file:///C:/Users/PC/Downloads/doc\\_20150320\\_proposal\\_establishment\\_aufsmcm\\_arb\\_en.pdf](file:///C:/Users/PC/Downloads/doc_20150320_proposal_establishment_aufsmcm_arb_en.pdf) P v

<sup>52</sup> 'Food Safety- Fact Sheet' (Reviewed October, 2017) <[www.who.int/mediacentre/factsheets/fs399/en/](http://www.who.int/mediacentre/factsheets/fs399/en/)> accessed 12 October 2017

<sup>53</sup> Géraldine Marks-Sultan *Bulletin of the World Health Organization* 2016;94:534-539. doi: <http://dx.doi.org/10.2471/BLT.15.164749>

matter for an effective food safety practice.<sup>54</sup> Accordingly, there have been efforts both at the regional, sub-regional and national levels to use the law to tackle foodborne diseases and improve public safety in Africa.

### ***Regional and sub-regional efforts***

Certain regional policies on public health and food safety in particular are in existence. For instance, there is an attempt to establish a regional Food Safety Authority. After a comprehensive evaluation of food safety challenges in Africa was produced, and recommendations were made on the mission, structure and functions of an African Union Food Safety Management Coordination Mechanism (AU-FSMCM), the African Union Commission (AUC) was to set up African Food Safety Authority.<sup>55</sup> This structure, which is expected to organise food safety management in Africa, has however not been established till date.<sup>56</sup> The initiative to establish the African Food Safety Authority is commendable but the delay in establishing it demonstrates the lack of political will to ensure food safety in Africa.

The African Health Strategy (AHS 2016 – 2030) is another commendable initiative. It is the primary document that consolidates all African commitments in the health sector. It provides Africa’s Member States with strategic guidelines on establishing an improved health sector.<sup>57</sup> The goal of the AHS 2016 - 2030 is to ensure healthy lives and promote the well-being for all in Africa in the context of “Agenda 2063: The Africa We Want” and the Sustainable Development Goals.<sup>58</sup>

Another laudable regional approach to ensuring food safety is the Africa Regional Nutrition Strategy 2015–2025, (ARNS 2015-2025). It acknowledges that the lingering high level of

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<sup>54</sup> Géraldine Marks-Sultan Bulletin of the World Health Organization 2016;94:534-539.  
doi: <http://dx.doi.org/10.2471/BLT.15.164749>

<sup>55</sup> RECOMMENDATIONS For the Missions, Functions and Structure of African Union Food Safety Authority and a Rapid Alert System for Food and Feed,  
[file:///C:/Users/PC/Downloads/doc\\_20150320\\_proposal\\_establishment\\_aufsmcm\\_arb\\_en.pdf](file:///C:/Users/PC/Downloads/doc_20150320_proposal_establishment_aufsmcm_arb_en.pdf) P5

<sup>56</sup> RECOMMENDATIONS For the Missions, Functions and Structure of African Union Food Safety Authority and a Rapid Alert System for Food and Feed,  
[file:///C:/Users/PC/Downloads/doc\\_20150320\\_proposal\\_establishment\\_aufsmcm\\_arb\\_en.pdf](file:///C:/Users/PC/Downloads/doc_20150320_proposal_establishment_aufsmcm_arb_en.pdf) P5

<sup>57</sup> Africa Health Strategy 2016 – 2030 of the AU, [https://au.int/sites/default/files/documents/30357-doc-final\\_ahs\\_strategy\\_formatted.pdf](https://au.int/sites/default/files/documents/30357-doc-final_ahs_strategy_formatted.pdf) P6

<sup>58</sup> Africa Health Strategy 2016 – 2030 of the AU, [https://au.int/sites/default/files/documents/30357-doc-final\\_ahs\\_strategy\\_formatted.pdf](https://au.int/sites/default/files/documents/30357-doc-final_ahs_strategy_formatted.pdf) P7

malnutrition in Africa is a serious health challenge and proposes nutrition specific interventions including providing food ways that do not endanger health. The strategy demands for improved quantity and quality of foods produced in the region.<sup>59</sup> It recommends more developed mechanisms for producing, processing, preservation, preparation and presentation of food, in order to retain its nutritional value and ensure food safety.<sup>60</sup> It demands that the AUC and its nutrition supporting and implementing associates, including the Regional Economic Communities (RECs), organise regional and/or sub-regional conferences and consultations on nutrition and food security issues that involve a common African position and understanding, at least once a year.<sup>61</sup> In addition, the African Union Commission cooperates with the RECs and donor agencies to plan and implement regional programmes that build Sanitary and Phytosanitary capacities related to food safety.<sup>62</sup> On the sub-regional level, the relevant Ministers of the West African sub- region under the ‘One Health Ministerial’ Meeting in 2016 had decided amongst others; to enhance collaboration between projection, early warning and surveillance networks for human health, animal health and food safety.<sup>63</sup>

### *National efforts*

There have been efforts made at the national levels to regulate the food and drinks industry, and related industries. Several countries in the region have made some efforts to update and strengthen their food safety systems and infrastructure in recent years. This has included restructuring of food control systems for better coordination and integration of services, adoption of food safety policies and engagement of the judiciary.<sup>64</sup>

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<sup>59</sup> Africa Regional Nutrition Strategy 2015–2025, [https://au.int/sites/default/files/pages/32895-file-arns\\_english.pdf](https://au.int/sites/default/files/pages/32895-file-arns_english.pdf) P16-17

<sup>60</sup> Africa Regional Nutrition Strategy 2015–2025, [https://au.int/sites/default/files/pages/32895-file-arns\\_english.pdf](https://au.int/sites/default/files/pages/32895-file-arns_english.pdf) P18

<sup>61</sup> Africa Regional Nutrition Strategy 2015–2025, [https://au.int/sites/default/files/pages/32895-file-arns\\_english.pdf](https://au.int/sites/default/files/pages/32895-file-arns_english.pdf) P26

<sup>62</sup> RECOMMENDATIONS For the Missions, Functions and Structure of African Union Food Safety Authority and a Rapid Alert System for Food and Feed, [file:///C:/Users/PC/Downloads/doc\\_20150320\\_proposal\\_establishment\\_aufsmcm\\_arb\\_en.pdf](file:///C:/Users/PC/Downloads/doc_20150320_proposal_establishment_aufsmcm_arb_en.pdf) P11

<sup>63</sup> Paragraph 6, Communiqué of the One Health Ministerial Meeting To Address Zoonotic Diseases and Other Related Public Health Threats Dakar, Senegal 11 November 2016; [https://www.preventionweb.net/files/51012\\_conferencecommuniqueneonehealth.pdf](https://www.preventionweb.net/files/51012_conferencecommuniqueneonehealth.pdf) accessed 15 June 20, 2018

<sup>64</sup> The health of the people: what works – the African Regional Health Report 2014, World Health Organization. Regional Office for Africa,

Nigeria currently operates a multiple agency Food Safety Control System which is mostly sectorial.<sup>65</sup> Enactment and implementation of food safety legislations are also fragmented between the three tiers of Government: Federal, State and Local Government Area Councils. There is in existence the National Agency for Food Drug Administration and Control Act and its regulations, National Environmental Standards and Regulations Enforcement Agency Act, Standard Organization of Nigeria Act, Consumer Protection Council Act, Food and Drug Act, and so on. There is also the National Policy on Food Safety which was adopted in 2014. It aims to integrate and harmonize all existing laws, standards and codes that regulate food safety practices in Nigeria; redefine and coordinate existing food control infrastructures at various levels of government; and eliminate areas of overlap and conflict.<sup>66</sup>

South Africa also operates a multiple agency Food Safety Control with Ministries of Health, Agriculture and Trade and Industry as the relevant ministries. There exists the Agricultural Product Standards Act, 1990 and the Foodstuffs, Cosmetics and Disinfectants Act, 1972<sup>67</sup> with its set of regulations that govern the manufacture, sale and importation of all foodstuffs to ensure food safety.<sup>68</sup> Resulting from the listeria outbreak, the government of South Africa is set to revise its weak food safety regulations expediently. The regulations are currently undergoing the second phase of legal processes.<sup>69</sup>

In Mali, a national food safety agency was instituted by law in 2003, and a national food safety council was established to harmonise food safety activities, including technical and scientific support, risk assessment, supporting surveillance activities, epidemiological networks and risk

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<http://apps.who.int/iris/bitstream/handle/10665/137377/9789290232612.pdf;jsessionid=FD918F5B0C3E6CB9D57502D8E45AC4B8?sequence=4> P93

<sup>65</sup> Y Oni, 'National and International Food Safety Governance: Nigerian Perspective', Presentation by Ag DG (NAFDAC) @ the 1st Nigerian Food Safety & Investment Forum, 7 – 8 February, 2017 <<http://fsif.nqi-nigeria.org/docs/d1/NAFDAC.pdf>> accessed 13 June 2017

<sup>66</sup> Jane Ezirigwe, "Much ado about Food Safety Regulation in Nigeria?" (2018) Journal for Sustainability Law and Policy (Forthcoming)

<sup>67</sup> Act 54 of 1972

<sup>68</sup> Guidelines For Environmental Health Practitioners On Food Safety Control At Special Events, <file:///C:/Users/PC/Downloads/eventsguidelines.pdf> p5

<sup>69</sup> GEORGINA CROUTH, New food-safety regulations imminent, Pretoria News, 19 MARCH 2018, <https://www.iol.co.za/pretoria-news/new-food-safety-regulations-imminent-13904842>

communication.<sup>70</sup> In Ghana and Kenya, there are also efforts to coordinate food safety activities.<sup>71</sup>

Nevertheless, a cursory look at these regulations by most African countries reveals that the provisions are outdated, weak, fragmented<sup>72</sup> and not in line with current realities.<sup>73</sup> In most African countries, the management of food safety is a multi-sectorial affair, often concerning the ministries of health, agriculture, science and technology, trade/industry, tourism, and local governments. This institutional structure is often typified by multiple organisations, with overlapping or conflicting mandates resulting in confusion and neglect, inadequate enforcement of regulations, and misallocation of resources.<sup>74</sup> Inadequate coordination between these ministries and agencies has aggravated the problem.<sup>75</sup> Weak law enforcement and lack of political will are also evident.<sup>76</sup>

Although the most African countries are members of Codex and signatories to the Sanitary and Psycho-sanitary Agreement, their processes for setting standards and technical guidelines are not well defined, and do not indicate a scientific risk assessment.<sup>77</sup> A sound scientific risk assessment is a significant component in any food safety risk management decision. Risk

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<sup>70</sup> The health of the people: what works – the African Regional Health Report 2014, World Health Organization. Regional Office for Africa, <http://apps.who.int/iris/bitstream/handle/10665/137377/9789290232612.pdf;jsessionid=FD918F5B0C3E6CB9D57502D8E45AC4B8?sequence=4> P93

<sup>71</sup> The health of the people: what works – the African Regional Health Report 2014, World Health Organization. Regional Office for Africa, <http://apps.who.int/iris/bitstream/handle/10665/137377/9789290232612.pdf;jsessionid=FD918F5B0C3E6CB9D57502D8E45AC4B8?sequence=4> P93

<sup>72</sup> RECOMMENDATIONS For the Missions, Functions and Structure of African Union Food Safety Authority and a Rapid Alert System for Food and Feed, [file:///C:/Users/PC/Downloads/doc\\_20150320\\_proposal\\_establishment\\_aufsmcm\\_arb\\_en.pdf](file:///C:/Users/PC/Downloads/doc_20150320_proposal_establishment_aufsmcm_arb_en.pdf) P v

<sup>73</sup> RECOMMENDATIONS For the Missions, Functions and Structure of African Union Food Safety Authority and a Rapid Alert System for Food and Feed, [file:///C:/Users/PC/Downloads/doc\\_20150320\\_proposal\\_establishment\\_aufsmcm\\_arb\\_en.pdf](file:///C:/Users/PC/Downloads/doc_20150320_proposal_establishment_aufsmcm_arb_en.pdf) P9

<sup>74</sup> RECOMMENDATIONS For the Missions, Functions and Structure of African Union Food Safety Authority and a Rapid Alert System for Food and Feed, [file:///C:/Users/PC/Downloads/doc\\_20150320\\_proposal\\_establishment\\_aufsmcm\\_arb\\_en.pdf](file:///C:/Users/PC/Downloads/doc_20150320_proposal_establishment_aufsmcm_arb_en.pdf) P9

<sup>75</sup> The health of the people: what works – the African Regional Health Report 2014, World Health Organization. Regional Office for Africa, <http://apps.who.int/iris/bitstream/handle/10665/137377/9789290232612.pdf;jsessionid=FD918F5B0C3E6CB9D57502D8E45AC4B8?sequence=4> P93

<sup>76</sup> RECOMMENDATIONS For the Missions, Functions and Structure of African Union Food Safety Authority and a Rapid Alert System for Food and Feed, [file:///C:/Users/PC/Downloads/doc\\_20150320\\_proposal\\_establishment\\_aufsmcm\\_arb\\_en.pdf](file:///C:/Users/PC/Downloads/doc_20150320_proposal_establishment_aufsmcm_arb_en.pdf) P 7

<sup>77</sup> RECOMMENDATIONS For the Missions, Functions and Structure of African Union Food Safety Authority and a Rapid Alert System for Food and Feed, [file:///C:/Users/PC/Downloads/doc\\_20150320\\_proposal\\_establishment\\_aufsmcm\\_arb\\_en.pdf](file:///C:/Users/PC/Downloads/doc_20150320_proposal_establishment_aufsmcm_arb_en.pdf) P9

assessments are required in establishing relevant food safety legislation, in establishment of food inspection priorities and other food safety policies.<sup>78</sup> There are also in existence inadequate technical capacity for food safety management and lack of scientific basis for food safety management decisions.<sup>79</sup>

Food production, processing, and marketing in most African countries is typically through the informal markets and highly fragmented among a large number of small producers and handlers who do not possess adequate knowledge and expertise in the application of modern practices and food hygiene.<sup>80</sup> The foremost concern with the informal sector, especially street foods is poor hygiene and sanitation.<sup>81</sup> It has been documented that quite a good number of street food vending facilities in different parts of Africa do not meet good hygiene standards due to several reasons, including weak regulatory systems, inadequate food safety laws, lack of financial resources to invest in safer equipment and lack of education for food handlers.<sup>82</sup> Interestingly, most countries do not have appropriate policies and legislation to regulate street vending.<sup>83</sup>

Finally, there is a critical lack of up-to-date knowledge and proficiency to deliver professional food inspections services as required.<sup>84</sup> The majority of African countries have not instituted capacity building and training programmes for government food control officials, producers, food industry and/or the consuming public.<sup>85</sup> These must go hand in hand with the regulations in

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<sup>78</sup> RECOMMENDATIONS For the Missions, Functions and Structure of African Union Food Safety Authority and a Rapid Alert System for Food and Feed,

[file:///C:/Users/PC/Downloads/doc\\_20150320\\_proposal\\_establishment\\_aufsmcm\\_arb\\_en.pdf](file:///C:/Users/PC/Downloads/doc_20150320_proposal_establishment_aufsmcm_arb_en.pdf) P10

<sup>79</sup> RECOMMENDATIONS For the Missions, Functions and Structure of African Union Food Safety Authority and a Rapid Alert System for Food and Feed,

[file:///C:/Users/PC/Downloads/doc\\_20150320\\_proposal\\_establishment\\_aufsmcm\\_arb\\_en.pdf](file:///C:/Users/PC/Downloads/doc_20150320_proposal_establishment_aufsmcm_arb_en.pdf) P 7

<sup>80</sup> RECOMMENDATIONS For the Missions, Functions and Structure of African Union Food Safety Authority and a Rapid Alert System for Food and Feed,

[file:///C:/Users/PC/Downloads/doc\\_20150320\\_proposal\\_establishment\\_aufsmcm\\_arb\\_en.pdf](file:///C:/Users/PC/Downloads/doc_20150320_proposal_establishment_aufsmcm_arb_en.pdf) P10

<sup>81</sup> Ntambwe Malangu, Risk Factors and Outcomes of Food Poisoning in Africa in Significance, Prevention and Control of Food Related Diseases, <http://dx.doi.org/10.5772/60612>.

<https://www.intechopen.com/download/pdf/49838P69-70>

<sup>82</sup> Ntambwe Malangu, Risk Factors and Outcomes of Food Poisoning in Africa in Significance, Prevention and Control of Food Related Diseases, <http://dx.doi.org/10.5772/60612>.

<https://www.intechopen.com/download/pdf/49838P67>

<sup>83</sup> Ntambwe Malangu, Risk Factors and Outcomes of Food Poisoning in Africa in Significance, Prevention and Control of Food Related Diseases, <http://dx.doi.org/10.5772/60612>.

<https://www.intechopen.com/download/pdf/49838P67>

<sup>84</sup> RECOMMENDATIONS For the Missions, Functions and Structure of African Union Food Safety Authority and a Rapid Alert System for Food and Feed,

[file:///C:/Users/PC/Downloads/doc\\_20150320\\_proposal\\_establishment\\_aufsmcm\\_arb\\_en.pdf](file:///C:/Users/PC/Downloads/doc_20150320_proposal_establishment_aufsmcm_arb_en.pdf) P11

<sup>85</sup> RECOMMENDATIONS For the Missions, Functions and Structure of African Union Food Safety Authority and a Rapid Alert System for Food and Feed,

[file:///C:/Users/PC/Downloads/doc\\_20150320\\_proposal\\_establishment\\_aufsmcm\\_arb\\_en.pdf](file:///C:/Users/PC/Downloads/doc_20150320_proposal_establishment_aufsmcm_arb_en.pdf) P11

form of policies. Consumer education is a crucial part of preventing food-borne illnesses, but its importance is not manifested in African countries' policies and actions.<sup>86</sup> The catalytic role, to be performed by consumer associations in promoting the quality and safety of food supplies, is not widely acknowledged, and in most countries such groups are only weakly formed, and largely ignored.<sup>87</sup> They have no formal responsibility set out in advising government, and obtain no support to build their competences in representing the most important stakeholders in the food safety system – consumers.<sup>88</sup>

#### 4.0 Challenges and Proposed reforms

Effectively regulating food safety in Africa is confronted with similar challenges across Africa, including deficiencies in the legal, judicial, cultural, infrastructural, political, educational, economic, administrative, socio-security and capacity building frameworks of most African states. The regulations are not comprehensive for regulating the informal sector, an important group in the food industry in Africa.<sup>89</sup> There have been very limited cases on public interest litigations on food safety and there is no obvious judicial activism that promotes food safety in Africa.

Cultural inclinations and beliefs constitute another limiting factor. Food poisoning is usually associated with evil spirit, malice or curses in many parts of Africa,<sup>90</sup> as against improving on hygiene measures. There is also a popular assertion that “*dirty/germ/disease no dey kill African man*” popularly chanted by the consuming public.<sup>91</sup> This is rooted in the argument that a hungry

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<sup>86</sup> RECOMMENDATIONS For the Missions, Functions and Structure of African Union Food Safety Authority and a Rapid Alert System for Food and Feed,

[file:///C:/Users/PC/Downloads/doc\\_20150320\\_proposal\\_establishment\\_aufsmcm\\_arb\\_en.pdf](file:///C:/Users/PC/Downloads/doc_20150320_proposal_establishment_aufsmcm_arb_en.pdf) P11

<sup>87</sup> RECOMMENDATIONS For the Missions, Functions and Structure of African Union Food Safety Authority and a Rapid Alert System for Food and Feed,

[file:///C:/Users/PC/Downloads/doc\\_20150320\\_proposal\\_establishment\\_aufsmcm\\_arb\\_en.pdf](file:///C:/Users/PC/Downloads/doc_20150320_proposal_establishment_aufsmcm_arb_en.pdf) P11

<sup>88</sup> RECOMMENDATIONS For the Missions, Functions and Structure of African Union Food Safety Authority and a Rapid Alert System for Food and Feed,

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<sup>89</sup> Ntambwe Malangu, Risk Factors and Outcomes of Food Poisoning in Africa in Significance, Prevention and Control of Food Related Diseases, <http://dx.doi.org/10.5772/60612>.

<https://www.intechopen.com/download/pdf/49838P67>

<sup>90</sup> Oyemade A, Omokhodion FO, Olawuyi JF, Sridhar MK, Olaseha, ‘Environmental and personal hygiene practices: risk factors for diarrhoea among children of Nigerian market women’ 1998 Dec; 16(4) IOJ Diarrhoeal Dis Res, 241-7.

<sup>91</sup> ‘You Will Think Twice About Eating Suya Meat After Seeing This’, Mcadioh,

<[www.naijaloaded.com.ng/news/you-will-think-twice-about-eating-suya-meat-after-seeing-this-photos](http://www.naijaloaded.com.ng/news/you-will-think-twice-about-eating-suya-meat-after-seeing-this-photos)> accessed 30 April 2018

or poor man may not be bothered about the quality and safety of the food being consumed.<sup>92</sup> These can be debunked by the statement that, ‘if it is not safe, it is not food.’<sup>93</sup> Inadequate infrastructure and resources to support scientific risk management, inefficient food supply chain and poor traceability also constitute challenges.<sup>94</sup> Poorly equipped laboratories,<sup>95</sup> and paucity of relevant data and information on incidence of food borne disease outbreaks result in poorly appreciating their burden of food safety.<sup>96</sup> A major obstacle to food safety in Africa is infrastructural deficiencies including poor disposal systems, lack of toilet facilities for customers,<sup>97</sup> poor water supply and poor drainage systems.<sup>98</sup> These ensue to food being prepared in unsanitary conditions,<sup>99</sup> and predispose conditions favourable to contamination. Political and administrative impediments also exist. The uncoordinated approach to food control, poor enforcement of legislations and regulatory limits<sup>100</sup> and lack of understanding of food safety and quality standards as outlined in international agreements,<sup>101</sup> hinder effective regulation. The inter-sectoral nature of food safety and the difficulties that it poses for

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<sup>92</sup> As raised by some people encountered by the author during this research.

<sup>93</sup> Markus Lipp, in Joseph James Whitworth, ‘*FERG: Global estimates must drive country action*’ (22 December 2015) <[www.foodnavigator.com/Article/2015/12/22/Country-studies-needed-to-guide-action-on-foodborne-diseases](http://www.foodnavigator.com/Article/2015/12/22/Country-studies-needed-to-guide-action-on-foodborne-diseases)> accessed 1 May 2018

<sup>94</sup> Y Oni, ‘National and International Food Safety Governance: Nigerian Perspective’, Presentation by Ag DG (NAFDAC) @ the 1st Nigerian Food Safety & Investment Forum, 7 – 8 February, 2017 <<http://fsif.nqi-nigeria.org/docs/d1/NAFDAC.pdf>> accessed 13 June 2017

<sup>95</sup> Jane Omojokun, ‘Regulation and Enforcement of Legislation on Food Safety in Nigeria’ in *Mycotoxin and Food Safety in Developing Countries*, Hussaini Makun (Ed.), (2013) InTech, DOI: 10.5772/54423. P251-252 <<https://www.intechopen.com/books/mycotoxin-and-food-safety-in-developing-countries/regulation-and-enforcement-of-legislation-on-food-safety-in-nigeria>> accessed 16 October, 2017

<sup>96</sup> S N Onyeneho, & C W Hedberg, ‘An Assessment of Food Safety Needs of Restaurants in Owerri, Imo State, Nigeria’ (2013) 10 (8) *International Journal of Environmental Research and Public Health* 3296–3309, p 3298 <<http://doi.org/10.3390/ijerph10083296>> accessed 18 October 2017

<sup>97</sup> A A Fasoro, C O Faeji, O I Oni, T Oluwadare, ‘Assessment of Food Safety Practices in a Rural Community in Southwest Nigeria’, (2016) Vol. 6 No. 3, *Food and Public Health* doi: 10.5923/j.fph.20160603.01, 59-64; J E Ehiri, M.C Azubuike, C.N Ubaonu, E.C Anyanwu, K.M. Ibe, M.O. Ogbonna, ‘Critical Control Points of complementary food preparation and handling in eastern Nigeria’ (2001) 75, Bull. World Health Organ., 423–433

<sup>98</sup> J E Ehiri, M.C Azubuike, C.N Ubaonu, E.C Anyanwu, K.M. Ibe, M.O. Ogbonna, ‘Critical Control Points of complementary food preparation and handling in eastern Nigeria’ (2001) 75, Bull. World Health Organ., 423–433

<sup>99</sup> J E Ehiri, M.C Azubuike, C.N Ubaonu, E.C Anyanwu, K.M. Ibe, M.O. Ogbonna, ‘Critical Control Points of complementary food preparation and handling in eastern Nigeria’ (2001) 75, Bull. World Health Organ., 423–433

<sup>100</sup> Jane Omojokun, ‘Regulation and Enforcement of Legislation on Food Safety in Nigeria’ in *Mycotoxin and Food Safety in Developing Countries*, Hussaini Makun (Ed.), (2013) InTech, DOI: 10.5772/54423. P251-252 <<https://www.intechopen.com/books/mycotoxin-and-food-safety-in-developing-countries/regulation-and-enforcement-of-legislation-on-food-safety-in-nigeria>> accessed 16 October, 2017

<sup>101</sup> Y Oni, ‘National and International Food Safety Governance: Nigerian Perspective’, Presentation by Ag DG (NAFDAC) @ the 1st Nigerian Food Safety & Investment Forum, 7 – 8 February, 2017 <<http://fsif.nqi-nigeria.org/docs/d1/NAFDAC.pdf>> accessed 13 June 2017

coordinating effective policies and actions across sectors is a major reason for the lack of coherent action.<sup>102</sup>

The issue of food – borne toxicants in Africa is exacerbated by public ignorance on the subject as well as inadequate knowledge and skills in food workers.<sup>103</sup> Socio-security and climatic conditions like war, drought and political insecurity can result to a great challenge for effective regulation.<sup>104</sup> Climate change, where temperature changes modify food safety risks associated with food production, storage and distribution, has impact on food safety.<sup>105</sup> The growing population rate also increases the burden on food security and a relaxed attitude by the consuming public and the regulators alike.<sup>106</sup>

Poverty is also a contributing factor to non-compliance to food safety procedures. For instance, to avoid contamination from animals, people are educated to avoid sick animals especially those consumed as bush meat. However, due to poverty and hunger, no amount of education or risk will stop a desperately hungry person from eating a sick animal, when he has no options.<sup>107</sup> After all, a 100 percent chance of death from starvation would be dreaded more than a less-than-certain chance of getting sick or dying from eating infected bush meat.<sup>108</sup>

Most of these challenges can be overcome with an intensive public campaign to educate the food handlers and the consuming public as well as a concerted effort to synergise amongst the

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<sup>102</sup> The health of the people: what works – the African Regional Health Report 2014, World Health Organization. Regional Office for Africa, <http://apps.who.int/iris/bitstream/handle/10665/137377/9789290232612.pdf;jsessionid=FD918F5B0C3E6CB9D57502D8E45AC4B8?sequence=4> P92

<sup>103</sup> RECOMMENDATIONS For the Missions, Functions and Structure of African Union Food Safety Authority and a Rapid Alert System for Food and Feed, [file:///C:/Users/PC/Downloads/doc\\_20150320\\_proposal\\_establishment\\_aufsmcm\\_arb\\_en.pdf](file:///C:/Users/PC/Downloads/doc_20150320_proposal_establishment_aufsmcm_arb_en.pdf) P7

<sup>104</sup> Jane Omojokun, n.....

<sup>105</sup> Food Safety- Fact Sheet (n .....

<sup>106</sup> Jane Ezirigwe, "Much ado about Food Safety Regulation in Nigeria?" (2018) Journal for Sustainability Law and Policy (Forthcoming)

<sup>107</sup> Jill Richardson, Deadly African Ebola Virus Linked to Bushmeat, 17 September 2012, <http://www.foodsafetynews.com/2012/09/deadly-african-ebola-virus-linked-to-bushmeat/#.WyYel0gvw2w>

<sup>108</sup> Jill Richardson, Deadly African Ebola Virus Linked to Bushmeat, 17 September 2012, <http://www.foodsafetynews.com/2012/09/deadly-african-ebola-virus-linked-to-bushmeat/#.WyYel0gvw2w>

relevant agencies. There is need to implement appropriate polices and strengthen capacity for food control, including those for foodborne disease surveillance.<sup>109</sup>

Litigation can be a central strategy in improving public health.<sup>110</sup> The need for a proactive legal and judicial engagement cannot be overemphasized in the bid to ensure an effective food safety regime. African lawyers can take a clue from Mr Bill Marler, a United States food safety lawyer and a food policy change agent in the U.S, whose law firm, Marler Clark, has represented thousands of individuals in claims against food companies whose contaminated products have caused life altering injury and even death.<sup>111</sup> He has filed lawsuits against such companies as Chili's, Chi-Chi's, Cargill, ConAgra, Dole, Excel, Golden Corral, KFC, McDonald's, Odwalla, Peanut Corporation of America, Sheetz, Sizzler, Supervalu, Taco Bell and Wendy's, securing over \$600,000,000 for victims of foodborne illnesses.<sup>112</sup> Some of his cases contributed to successfully moving forward the Food Safety Modernization Act in 2010.<sup>113</sup>

## 5.0 Concluding remarks

Public health law has received considerable attention in recent years and has become an essential field in public health.<sup>114</sup> Food safety law is a significant part of public health law. This is notwithstanding the fact that the importance of food safety in Africa is often outshone by incidences of food insecurity, political instability, and outbreaks of communicable diseases, which have tended to dominate government focus.<sup>115</sup> The need to protect the African populace from food borne diseases has become urgent, given the frequency of its occurrence.

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<sup>109</sup> The health of the people: what works – the African Regional Health Report 2014, World Health Organization. Regional Office for Africa, <http://apps.who.int/iris/bitstream/handle/10665/137377/9789290232612.pdf;jsessionid=FD918F5B0C3E6CB9D57502D8E45AC4B8?sequence=4> P92

<sup>110</sup> Jason A. Smith, Setting the Stage for Public Health: The Role of Litigation in Controlling Obesity, 28 U. Ark. Little Rock L. Rev. 443 (2006). P443 Available at: <http://lawrepository.ualr.edu/lawreview/vol28/iss3/8>

<sup>111</sup> 'Food Safety Attorney Bill Marler Recognized as One of The Best Lawyers in America' (August 18, 2017) <[www.foodpoisonjournal.com/food-poisoning-information/food-safety-attorney-bill-marler-recognized-as-one-of-the-best-lawyers-in-america/](http://www.foodpoisonjournal.com/food-poisoning-information/food-safety-attorney-bill-marler-recognized-as-one-of-the-best-lawyers-in-america/)>accessed 20 October 2017

<sup>112</sup> *Ibid*

<sup>113</sup> *Ibid*

<sup>114</sup> Burris, S., Wagenaar, A. C., Swanson, J., Ibrahim, J. K., Wood, J., & Mello, M. M. (2010). Making the Case for Laws That Improve Health: A Framework for Public Health Law Research. *The Milbank Quarterly*, 88(2), 169–210. <http://doi.org/10.1111/j.1468-0009.2010.00595.x>

<sup>115</sup> RECOMMENDATIONS For the Missions, Functions and Structure of African Union Food Safety Authority and a Rapid Alert System for Food and Feed, [file:///C:/Users/PC/Downloads/doc\\_20150320\\_proposal\\_establishment\\_aufsmcm\\_arb\\_en.pdf](file:///C:/Users/PC/Downloads/doc_20150320_proposal_establishment_aufsmcm_arb_en.pdf) P9

Food safety is a shared responsibility. However, a focus on regional policies & initiatives will not yield the needed results as the most significant approach to ensuring Africa's public health and safety is at the national level. Explicit laws, strong regulatory infrastructure, mechanisms for coordination, emergency preparedness and effective health systems must be put in place.<sup>116</sup> Some of the responsibilities should also be on the food handlers and the consuming public.<sup>117</sup>

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<sup>116</sup> Géraldine Marks-Sultan Bulletin of the World Health Organization 2016;94:534-539.  
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