



The Need for a Legal Regime for Sustainable Forest Management in Nigeria

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Introduction

Nigeria's formally protected forests comprise of forest reserves, free areas and conservation areas. These areas cover about 10% of Nigeria's forested territory, which falls far below the FAO's recommended national minimum of 25%. The situation in Nigeria is one that between 1990 and 2005, Nigeria lost 21% of its forests, far higher than the global average of 3.3%.¹ The reservation of land for forestry purposes was at its peak during colonial times. Efforts to increase the coverage of forest reserves (FRS) since then have not been too successful and the current total coverage stands at 2,740,887 ha. Initiatives of successive governments after independence have not achieved the desired targets as a result of macro and micro levels of activity in many forest lands. Over the years, forests have been exploited by some individuals, corporate entities and governments as a source of revenue and to boost national and international trade.² Nigeria's forest is being swiftly depleted because of human exploitation arising from opening up of communal forest land for oil exploitation, mining, road

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¹ *State of Nigeria's Forests* (2010) 4 IITA Research for Development.

² *FAO Corporate Document Repository: Forest Resource Situation Assessment of Nigeria* (1998) Forest Department.

development, agriculture and stock farming.³ These activities pose threats to the continued preservation and control of forests which were once the hallmark of forestry laws in Nigeria. Unchecked utilization of forest reserves will lead to deforestation, which is a form of disinvestment for future generations because of associated loss of soil nutrients, thereby defeating the quest for sustainable development. Other continuing threats to forest reserves in Nigeria include certain economic activities, such as the timber trade and illegal felling of trees, and expanding urbanization.⁴

This Report considers the extent to which Nigeria has complied with international agreements relating to forest conservation in tackling environmental crime resulting from illegal lumbering and logging activities with a view to proposing new strategies for preserving and protecting forest reserves resources for sustainable development.

Free Areas, Conservation Areas and Forest Reserves

The bulk of the forestry products and services are obtained from the management of the forest reserves and free areas of the country. Free areas are forested areas that are not under strict management by the Government Forestry Department. However, permission to exploit trees from free areas still has to be obtained from the government authority. The total area in free forest areas is about 11,780,896 ha. They provide additional sources of forest products and services and are considered to be very important for private forestry development. Some of these areas have been targeted as Potential Plantation Areas (PPAs).⁵ Conservation areas,⁶ including game reserves, wildlife sanctuaries and strict nature reserves (SNRs) account for 3,989,871

³ A. Utuama, 'Planning Law and Environmental Protection', in J. Omotola (ed) *Environmental laws in Nigeria including Compensation*, Faculty of Law Lagos, Nigeria, at pp.16-34.

⁵ World Bank Report *Forest Sector Review* (2002).

⁶ Managed mainly by the wildlife sections of the Government Forestry Department. However, foreign organizations and non-governmental organizations are very active in the management of state natural resources.

ha. There are also six national parks (NP) covering some 2,155,740 ha.⁷ Generally, conservation areas in Nigeria are still considered to be inadequate to protect biologically diverse environments in the country

As stated above, forest reserves account for approximately 10% of the land area of Nigeria. The treatment accorded to forest reserves within the enabling law varies according to ecological classification: for example, reserves in the Savanna and Sahel regions may not, in contrast to those in the lowland rain forest areas of southern Nigeria, have adequate timber resources.

Strengths of Forest Reserves in Tropical Areas

The introduction of forest reservation policies in tropical countries has been an important factor in improving land use. Forest reserves, when they have been created and enforced, have rapidly constrained the horizons of the farmer bent on forest encroachment and shifting cultivation. Forest reserve policies are having a similarly beneficial effect in the dry lands of the tropics. Within the extensive savanna zone, where livestock production is a primary occupation, cattle raisers have always defied boundaries except those of large rivers, impassable mountains and tsetse fly areas.⁸ Over the past two generations there has been an increasing tendency for individuals in tropical Africa to acquire freehold rights to land, a new economic pattern for these traditional societies. Consequently, there has been an erosion of the authority of rulers, chiefs and heads of clans who in the past spoke for the village or community on land-use questions as land was formerly understood to belong not to individuals but to communities.⁹

⁷ Namely: Kainji NP (534,082 ha); Old Oyo NP (251,200 ha); Cross River NP (280,000 ha); Gashaka-Gumti NP (640,248 ha); Yankari NP (224,410 ha); and Chad Basin NP (225,800 ha). These are managed by the National Parks Service.

⁸ See S. Kolade Adeyoju, 'Where Forest Reserves Improve Agriculture' *FAO Corporate Document Repository* (available at www.fao.org/docrep/f9645e/f9645e06.htm).

⁹ See A. Utuama *Nigerian Law of Real Property- An introduction* (1990) Shaneson C.I. Ltd, Ibadan, Nigeria, at pp. 6-23.

Forest Burning

The act of forest burning is rampant and predominant in many societies in Nigeria, with serious implications on the environment and the health of the people in affected areas. Over the years incessant bush burning has resulted in colossal loss of economic resources consequent on the destruction of food and cash crops, timbers and fauna of rare species. The root cause of indiscriminate bush burning has been attributed to poverty, as many citizens engage in the act to avoid incurring expenditure in the clearing of the forest for farming and others set forest ablaze for hunting expeditions. The unabated dangerous practice of forest burning often leads to loss of life and property. In the process, tons of gaseous matters are released into the ecosystem polluting the environment and this pollution resulting in desertification and deforestation, both of which threaten biodiversity.¹⁰ Thus, deforestation has many human and environmental consequences ranging from scarcity of fuel, wood and building materials to micro-climatic changes and loss of biodiversity and habitat.¹¹ The situation is worrisome in Nigeria as there is growing concern that many living tropical trees are already functionally extinct without any hope of regeneration.¹² The Nigerian government has been making concerted efforts through the Trees Campaign to raise awareness of the need to ensure sustainable forests.

Lumbering

The Nigerian government has made a national policy to combat illegal logging and both Federal and State governments have pledged to work together to eradicate the problem. However, this cannot be meaningfully achieved without

¹⁰ See: Control of Bush Burning: Ondo State Law No. 4 of 1989. This law makes it an offence for any person to set fire to or burn any bush in the State. See further D. Ijalaye, 'The Sociological School of Jurisprudence and the Nigerian Legal Order' in A. Adedipe (ed) *Nigeria and the Challenge of Knowledge: Essays in Honour of Jonathan Olusesan Dipeolu* (1992) Nigerian Bar Association, Akure, Nigeria, at p.37.

¹¹ This is to comply with the Kyoto Protocol.

¹² 'Report of Department of Environment, Food and Rural Affairs' (2002) 18 *International Development Magazine*, DFID, at p. 20.

resolving conflict between the competing interests of saw millers, who depend on logging for their livelihoods and the government with its responsibility to tackle violations of forest laws and prosecute forest crimes.¹³ The initiative to control illegal logging has the backing of international agreement, where notable steps have been made to curtail the trade in illegally harvested timber which, if effectively implemented in Nigeria will safeguard against the extinction of forest produce and promote the future of the forests in Nigeria. The Nation is consuming natural resources at an unsustainable rate. Forests are disappearing, grasslands are diminishing, animal species are depleting and soil depreciating as a result of over-utilisation.

Global Warming and Climate Change

The effects of global warming and climate change are multidimensional in many African countries including Nigeria and include; increased incidence of floods, drought, and inability to tackle illness through the extinction of plant species used in the preparation and administration of traditional medicines.¹⁴ Many Nigerians living in rural settings depend largely on fauna species and ecosystem diversity to support their livelihoods. Hence, the magnitude of impact that climate change has on natural systems threatens their existence, food supply and health. This coupled with similar effects caused by deforestation and traditional shifting cultivation practices on the demand of scarce fuel wood, water and other challenges pose enormous difficulties for the most vulnerable.¹⁵ The problems experienced in this regard can actually be aggravated by practices adopted under international initiatives to cut down greenhouse gas emissions if the activities of companies operating on Nigeria if they fail to comply with the relevant international standards.

¹³ Ibid.

¹⁴ In Nigeria, about 90% of the population relies on natural plants for primary health care and treatment of disease transmission.

¹⁵ The traditional role of women in the household means that they will bear the brunt of the climate-induced scarcity. In many villages in Nigeria, women and girls walk approximately 5 kilometers a day to collect water and wood for domestic use.

Bamboo Species

Another catastrophic effect of deforestation is its effect on wild bamboo reserves¹⁶ and the threat of extinction of endangered species that rely exclusively on them for habitats and food. In Nigeria, millions of people make use of bamboo for food, construction material, furniture and traditional musical instruments, firewood, and paper. It also serves as revenue source through international trade in bamboo products.¹⁷ The environmental impact of commercial bamboo cultivation included reducing areas of forest remaining within their native ranges. The life cycle of bamboos and the limited range of areas in which they can survive, makes them especially vulnerable to rapid deforestation with attendant climate change effects on the ecosystems.

Mountains and Forest Lands

Mountains form a significant part of forest endowments. They are most often perceived as everlasting and unchanging, although in reality they support fragile eco-systems vulnerable to climate change, armed conflict, fire and other hazards. According to the UNEP-WCMC¹⁸ report, mountain areas cover 26% of the earth's land surface and host 12% of its people. They provide essential resources for both mountain and low land people, critical reserves of biodiversity, food, forests and minerals. It is remarkable to note that 67% of Africa's mountains are hard-hit by multiple pressures, including the conversion of forest to grazing land. They are particularly vulnerable to global warming, with UNEP predicting that 98% of its mountain areas could suffer severe climate change by 2055.¹⁹

¹⁶ The report by the UNEP World Conservation Monitoring Centre (UNEP-WCMC) states that one third to a half of the world's 1200 bamboo species could become extinct as their forest habitat dwindles.

¹⁷ United Nations *Report at Conference on Climate Change* (Poznan, Poland, December 2008). According to this report, trade dealings in bamboo products, mostly from cultivated sources, are worth more than US\$2 billion annually.

¹⁸ United Nations Environmental Programme-World Conservation Monitoring Centre Report (2009).

¹⁹ Ibid. The Report provides the first map-based assessment of environment change and a global snapshot of the threats and vulnerability of different mountain regions.

Forest Reserve Resources and Energy

In Nigeria, the main source of energy for cooking is kerosene with about 90% of the population depending on it for domestic purposes. However, the supply has not always been regular and it is at best prohibitively expensive. As a result, approximately 60% of the population resorting to fuel wood on a daily basis. For example, the *Agala* forest in the city of Ibadan (South-western Nigeria) was largely deforested due to scarcity of kerosene supply in 1993/1994 political crisis in Nigeria.

Legal and Policy Protection of the Forest Resources

Prior to the Colonial administration, there had been trends of protective measures under customary law and practices in Nigeria. Some communities like the Yoruba speaking people of the South Western Nigeria classified certain forests as sacred for traditional worship purposes. Although the underlying philosophy was not for environmental, nonetheless, rights of access to these forests were strictly restricted and times exclusively prohibited except in extreme circumstances, a waiver being permissible for the overall interests of the community.²⁰

There are laws controlling the exploitation of natural resources, especially fauna, though, legal coverage of biodiversity use of flora species is considerably weaker.²¹ A careful assessment of the existing legislation reveals that the laws prohibit some specific environmentally unfriendly activity in forest reserves.²² However, law alone cannot regulate, protect and

²⁰ In certain situations, such forests are reserved as 'prison custody' to punish kings and other criminals of heinous crimes. The traditional courts gave orders of banishments for some culprits; lepers are also such to some of these forest lands.

²¹ In Nigeria, laws regulating the protection of the forests, endangered species and biodiversity are within the concurrent legislative list under the Constitution. Both the Federal and State Governments are competent authorities to legislate on these matters.

²² A. Imevbore and M. Okorodudu-Fubara, 'Review of Existing Laws and Statement on the Environment in Nigeria' Unpublished paper presented at the International Workshop on Goals and Guidelines of the National Environmental Policy for Nigeria, 12-16 September 1988, at p.65. See also A. Uchegbu, 'The Legal Regulations of Environmental Protection and Enforcement in Nigeria' (1988) 8 *Journal of Private and Property Law*, University of Lagos, at pp.57-68.

preserve these forests; there is a compelling need to instill in the people a culture of concern for nature conservation. The future of natural forests, forest reserves and protected forests depend to a large extent on people's attitude in balancing the competing interests of their "natural rights" and "legal obligations" with their use of the environment. The fact remains that a significant part of the population still depends on exploration of forest land for subsistence living, for many rural dwellers, farming and hunting expeditions as their legitimate means of survival and when they are faced with survival instincts and obeying the laws regulating forests, personal considerations override legal responsibility.²³ In all sincerity, equity and good conscience, protecting the forests is beyond the scope of a punitive and deterrent legislative regime: government also needs to make provision for indigent citizens and old people who have hitherto had to rely on traditional farming and hunting practices. This requires adopting a policy that gives villagers access to Government forests for viable agricultural farming. Adopting such an approach would gradually educates villagers in new forest management skills, improving local livelihoods, promoting forest regeneration, and increasing produce yields and incomes.

Conclusion

In this New World Civilization, deforestation and soil erosion have undermined the practice of agriculture, while the various tree cutting activities have exceeded the sustainable yield of forests and resulted in landscape and soil degradation. This report addresses the extent to which the established forest reserve constitutes an appropriate legal strategy for its conservation and curtailing the perennial deforestation in Nigeria. The federal government has also provided alternative legal and administrative measures to stem the tide of de-reservation in the country. The challenge confronting effective implementation is however multifaceted and requires socio-legal approach for its solution. Thus, from the problems and issues discussed in this report, it is clear that the challenge does not lend itself to an easy or quick solution. An

²³ M. Okorodudu-Fubara, *Law of Environmental Protection- Materials and Text* (1998) Caltop Publications, Ibadan, Nigeria, at pp.334-335.

essential part of this requires citizens to have full knowledge and consciousness of their environment and the value of its resources.