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CUSTOMARY LAW, THE ENVIRONMENT AND SUSTAINABLE DEVELOPMENT

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Abstract

The environment is one of the essential sources for human sustainability. Although the concept of environment is a very wide one, the nexus between customary law and the environment is of great importance. Customary law has been deemed to be of no direct link with the environment and sustainable development. This article considers the linkage and importance of the three concepts, though with wider jurisprudential debates. This article strictly considers importance of customary law to environment and sustainable development in Nigeria as well as United Nations Environmental Programme (UNEP) on the need to engage the indigenous people on achieving basic sustainable development goals. The article uses both indigenous people as well as native people to derive home the importance of the peoples' customs and beliefs. To achieve the goals of sustainable development in Nigeria, there is need to incorporate customary laws in Nigeria. The contributions of indigenous people at various ethnic setting in Nigeria are very important, because these people are the custodians of the customary laws which have been made applicable over times on certain aspects of the environment.

Keywords: Customary law, environment, importance, indigenous people, and sustainable development

Introduction

The environment is a one of the greatest sources of development in every society. The basic raw materials, food and presence ecosystem habitants enrich development of society. Many a society in different local communities depends solely on the environment for survival. Resources are those visible and invisible natural assets that are derived from the environment and are available for the benefits of the society.²

In Africa environment and sustainable development are essential concepts to healthy society. In the former heterogeneous settings of many tribes making sovereign entity called Nigeria today, traditional people lived in harmony with nature, ensuring a balance between themselves and the environment.³ Environmental management was practised, though rudimentary, in ensuring sustainability of resources...through an intergenerational system of

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Subair, Kola (2012). "Resource Endowment, Public Spending and Corruption in Nigeria." Corruption, Governance and Development in Nigeria Perspectives and Remedies. Mohammed Habu, et al. Aminu Kano Centre Democratic Research and Training, Kano. P. 56.

Amokaye, O. G., 2014. Environmental Law and Practice in Nigeria, 2nd ed., MIJ Professional Publishers, Lagos, at p. 7

classification, empirical observations about the local environment, traditional beliefs, practices, lifestyles and the land-tenure systems practiced from one generation to another have developed a sustainable system of traditional ecological knowledge which underscores the contemporary concept of sustainable development.⁴ Before the advent of British colonialism, customary laws on the environment and sustainable development were strictly adhered to by the major tribes comprising present day Nigeria.

Man has moved from one epoch to another. He has traversed the Stone Age, agricultural age, industrial, and now, lives in the information age⁵. Customary law refers to custom, local usage, and belief of a particular community considered as binding on the people. Most, if not all, of these customs and usages are said to have been developed from time immemorial and handed over to the people from generation to generation.⁶ The concept of customary law remains with people and their cultural heritage. Today, the environment remains the source of sustainable society in all the ages. Under Nigerian law, environmental law includes all the sources of Nigerian law that impact the environment.⁷ As a federation, there are numerous sources of environmental law including the Constitution, International treaties, state laws, local government laws, and common law.⁸ All these statutes are not, in any way directly point to the need to incorporate the customary law in which rural peoples obey easily based on the generational beliefs, practices, customs and norms that are incidental to management and control of the environment and sustainable development.

Importance of Nigerian Customary Laws to the Environment

Impacts of Nigerian customary laws cannot be undermined on the current global trends on the environment and sustainable development. The physical environment provides materials for living and development. The survival of their cultures and ways of life is invariably linked to maintaining the traditional knowledge which supports and nurtures the healthy relationships with the ecosystems in which they live. Their continued existence is also linked to ensuring that Indigenous Peoples are in most cases able to live within the carrying capacity of their ecosystems.⁹ It pertinent to reinstate that environment with its sustainability has been with mankind from medieval periods till date. People having taking measures towards better environment. Customary law has the capacity to adjust to changing demands of a developing society¹⁰ and its ecological environment and sustainable development.

Indigenous People and Customary Laws

Customary laws are associated with different people of same national concepts or cultural heritages. In Nigeria, the ethnic groups and minorities constitute indigenous peoples. These

⁴ Ibid.

⁵ Femi Daniel, 2015. Introduction to Computer Law in Nigeria. Ink-Spire Venture Limited, Lagos. P. 1.

Mikano E. Kiye, (2015). "The Repugnancy and Incompatibility Tests and Customary Law in Anglophone Cameroon." African Studies Quarterly Volume 15, Issue 2. P. 85.

⁷ Ogbodo, S. G., (2009) "Environmental Protection in Nigeria: Two Decades after the Koko Incident," Annual Survey of

International & Comparative Law: Vol. 15: Iss. 1, Article 2., p. 2.

Ibid.

Ibid.

Asien, J. O., Introduction to Nigerian Legal System, 2nd edition. Lagos: Ababa Press. P. 117.

groups and minorities ranges from Yoruba in the South-West of Nigeria, Hausa / Fulani in the Northern settlements, Igbo/Ijaw in the Southern-Western Nigeria among other minorities who practiced customary laws within their various settlements. The United Nations Permanent Forum on Indigenous Issues (UNPFII) provides following approach on how Indigenous Peoples can be identified: They have historical continuity or association with a given region or part of a given region prior to colonization or annexation; They identify themselves as Indigenous Peoples and are, at the individual level, accepted as members by their community; They have strong links to territories, surrounding natural resources and ecosystems; They maintain at least in part, distinct social, economic and political systems; They maintain, at least in part, distinct languages, cultures, beliefs and knowledge systems; They are resolved to maintain and further develop their identity and distinct social, economic, cultural and political institutions as distinct peoples and communities; They often form non-dominant sectors of society.¹¹ The above features enrich practices of customary laws among the ethnic groups. From the latter perspective, Sustainable development is essential to the indigenous peoples through customary laws.

Nigerian Customary Laws before the Advent of Colonialism

In the days before the introduction of British institutions, customary law was the sole governing law, and the machinery for its administration consisted entirely of customary tribunals.¹² In the protection and management of the environment, customary law has played vital roles in Nigeria even before the present environmental law regime.¹³ Depending on the culture of the people, Nigerian societies generally have many rich cultural practices which are humane, unique and allow for true environmental protection and administration of environmental resources in a sustainable manner.¹⁴ However, within the different cultures are some practices that are discriminatory, lopsided and archaic in a modern world and summarized generally as being repugnant to natural justice, equity and good conscience.¹⁵ Some of the cultural practices and beliefs that have direct or indirect impacts on the environment and notions of sustainable development are controlled by various customary laws of the tribes. Most of differences in the customary laws of many cultural settings are traceable to different concepts and cultural heritage such as language, proximity, origin, history, social structure and economy. Nevertheless, protection and sustenance of the environment are mostly similar in various tribal communities, though with slide practices. The seemly archaic practices and beliefs of the native communities still adhere strictly to some of these customs that aid sustainable environment at the various communities. For instance, Argungu Fishing Festival in the Northern Nigeria is a unique festival that is celebrated annually in order to celebrate fishing farming and unity among the people.

Accessed from:

https://wedocs.unep.org/bitstream/handle/20.500.11822/11202/UNEP_Indigenous_Peoples_Policy_Guidance_endorsed_by_SMT_26_11_12.pdf?sequence=1&isAllowed=y on 15th October, 2018.

Okany, M. C., 1984. *The Role of Customary Courts in Nigeria*, Fourth Dimension Publishers, Enugu, at p. 3

Adeoluwa, Raphael Oladele, *An Examination of Customary Practices Related to Environmental Protection in Nigeria*. *International Journal of Education and Human Developments*, Vol. 3 No. 2; March 2017, p. 48.

ibid.
ibid.

Nigerian Customary Laws after Independence

The various communities living in the different ecological zones of the country have developed, over many generations, their individual and unique traditional strategies for understanding and exploiting their environments and the available natural resources. This is embodied in the culture of the people and consists of their social, economic, legal and political institutions; their beliefs and values; their creative abilities; and their habits and materials as manifested in their housing, food, clothing, medical practices, tools, etc. Consequently, at every stage of a sustainable development plan, the interrelationships between culture, the natural environment and the rational utilization of available resources should be clearly comprehended¹⁶

The wind of change that blew over the face of Africa, beginning from the 1950s ushered in independence for a majority of Africa states,¹⁷ including Nigeria in 1960. Ibidapo-Obe¹⁸ quotes O. Adigun that, “Instead of adopting a model of law which stresses the need to develop indigenous strategies for legal emancipation based on our peculiar social and cultural conditions, we have neglected the accumulated wisdom handed down to us from our forefathers in our quest for development.”

Generally, customary law has common features among many ethnic groups in Nigeria. These features keep and preserve its sanctity. These common features are its unwritten nature, community acceptability, flexibility, generational transmission among others. Aside the features of customary law, its validity, ascertainment and applicability was set earlier through the incursion of the British Colonial Ordinance¹⁹ which provides that, “ Nothing in this Ordinance shall deprive any person of the benefit of any law or custom existing in the said colony and protectorate, such law and custom not being repugnant to natural justice, equity and good conscience nor incompatible either directly or by necessary implication with any enactment of the colonial legislature existing at the commencement of this Ordinance.” With all these features and validity tests, customary law still remains relevant till date on issues relating to the environment and its sustainability.

The 1999 Nigerian Constitution, vests the exclusive power to legislate on customary law in the House of Assembly of a State.²⁰ Customary law is a residual matter under the Constitution, not being specifically mentioned in both the Exclusive Legislative List and the Concurrent Legislative List.²¹ This position is based on the constitutional division of legislative powers sanctioned by section 4 of the Constitution.²² The section 4 of the 1999 constitution provides that:

¹⁶The culture remains with people regardless of foreign impositions.

¹⁷Ibidapo-Obe Akin, *A Synthesis of African Law*. Concepts Publication Limited, Lagos: 2005. P. 109.

¹⁸Ibid.

Section 19 of the Supreme Court Ordinance of 1876, which has been injected to rules and laws of many statutory courts in Nigeria till date.

Akintayo, J. O. A. (2013).” Constitutions and Customary Law,” African Notes, Journal of the Institute of African Studies, University of Ibadan. Vol. 37 No. 3 at page 18.

²¹Ibid.

²²Ibid. at 19.

The House of Assembly of a State shall have power to make laws for the peace, order and good

government of the State or any part thereof with respect to the following matters, that is to say:

any matter not included in the Exclusive Legislative List set out in Part I of the Second Schedule to this Constitution.

any matter included in the Concurrent Legislative List set out in the first column of Part II of the Second Schedule to this Constitution to the extent prescribed in the second column opposite thereto; and

any other matter with respect to which it is empowered to make laws in accordance with the provisions of this Constitution.

Customary laws of many ethnic settings in Nigeria had earlier adopted various features of the current international laws' measures towards the environment and sustainable development. Under the native customs and values system, apart from the mundane hygienic practice, there are systemic and sustainable conservation and forestry practices applied by the traditional people primarily for the preservation and protection of environment and ensuring the biodiversity of the plants and animals.²³ More also, it is noteworthy to point out that there are heterogeneous collaborations among traditional people towards preservations of natural resources, conservation of wildlife, disposal of wastes, festivals of new seasons, among others.

The International Concerns of the Environment and Sustainability

Since the United Nations Conference on the Human Environment held at Stockholm in 1972,²⁴ many international instruments made available subsequently indicate the urgent needs to protect the environments and imbibe the principles of sustainable development. The United Nations (UN) describes sustainable development goals as blueprint to achieve a better and more sustainable future for all. They address the global challenges we face, including those related to poverty, inequality, climate, environmental degradation, prosperity, and peace and justice. The Goals interconnect and in order to leave no one behind, it is important that we achieve each Goal and target by 2030.²⁵ To achieve the goals of sustainable development in Nigeria, there is need to incorporate customary laws in Nigeria. The contributions of indigenous people at various ethnic setting in Nigeria are very important, because these people are the custodians of the customary laws which have been made applicable over times on certain aspects of the environment.

The state of Indigenous Peoples and their environment and health conditions are increasingly under threat by a general population increase, large scale industrial activities, climate change, toxic waste, conflicts and migration, as well as by other unsustainable development activities.

²³ Amokaye, G. O. *Supra* at pp. 8-9.

The conference was first and unique international instrument that caused serious concerns for the environment and development globally.

United Nations' Statement on Sustainable Development Goals from:
<https://www.un.org/sustainabledevelopment/sustainable-development-goals/>, accessed on 10th September, 2018 by 5:45pm.

The structures of the world's ecosystems have been significantly degraded through human actions, including through the transformation of approximately one quarter of the Earth's terrestrial surface to cultivated systems. Most Indigenous Peoples suffer disproportionately from loss of biological diversity and deterioration of ecosystems such as forests, due to their subsistence economies and occupations and their spiritual connection to their traditional lands and territories.²⁶ What constitutes environmental writing in the world concerns pollution, ecological crisis, and dislocation caused by the management of resources, depletion of fauna and flora, etc.²⁷ But in the case of francophone Africa, almost all of these are provoked by capitalists in search of African resources to enrich themselves.²⁸ The impact of colonialism and neocolonialism on the African environment led to the massive environmental degradation of the continent.²⁹ It is imperative that international concerns on the African environment and its development are harnessed in consonance with the customary laws of the African States.

International Instruments and Framework on Indigenous Peoples on Sustainable Development

There have been efforts at international scenes to involve the indigenous peoples on sustainable development. These international instruments and framework are directly or indirectly relate to customary laws of the peoples. The following are the international instruments and framework on indigenous peoples on sustainable development:

Indigenous Peoples in United Nations Environmental Programme Strategic Approaches

The UNEP is an arm or agency of United Nations, it coordinates United Nations environmental activities, assisting developing countries in implementing environmentally sound policies and practices. It was pioneered by Maurice Strong, its first director, as a result of the United Nations Conference on the Human Environment (Stockholm Conference) in June 1972 and Environment has overall responsibility for environmental problems among United Nations agencies but international talks on specialized issues, such as addressing climate change or combating desertification, are overseen by other UN organizations, like the Bonn-based Secretariat of the United Nations Framework Convention on Climate Change and the United Nations Convention to Combat Desertification.³⁰

The following strategic approaches demonstrate the relevance to UNEP of engaging with Indigenous Peoples in some of its cross-cutting thematic areas: The UNEP Science Strategy is guided by the following in relation to indigenous and traditional knowledge which will be complemented by the research and assessments undertaken by UNEP and its partners:

²⁶ UNEP and Indigenous People, Supra 10 above.

²⁷ Akanji, A. A. (2016). Enriching Ecocriticism: The Case of Francophone African Literature, *African Notes Journal of African Studies University of Ibadan*, Volume 40 No. 1 & 2 2016. P. 8

²⁸ Ibid.

²⁹ Ibid.

Many of the UNEP interventions in developing States are laudable. The instance of Ogoni UNEP Report Impact Assessment urged the Federal Government of Nigeria to commence Ogoni Cleaning-up in 2018.

³¹ UNEP and Indigenous People. Supra 10 above.

- Disseminate relevant scientific data in order to ensure that the information also reaches those who can practically apply it on the ground.
- Considering Indigenous Peoples as stakeholders in the development of scenarios that impact upon them and/or their lands and territories.
- Involving Indigenous Peoples in impact assessment of development and environmental projects that involve and/or impact upon them.
- Engaging Indigenous Peoples as technicians enables researchers in collaboration with trained indigenous groups to gather more data of larger areas than would otherwise be possible.
- Inviting Indigenous Peoples to share their experiences and observations acquired from previous generations.³²

Disconnects of indigenous people from implementing customary laws to address environmental challenges and sustainable development do not help many national and international legal instruments. There is need to reconcile customary laws with the statutory laws on the environment and sustainable development in Nigeria. Most of the environmental challenges that directly or indirectly affect the customary laws in Nigeria are considered hereafter.

Customary Practices and Environmental Challenges in Nigeria

Deforestation: Deforestation in Nigeria is one of the major challenges of the environment and sustainable development. Forests in Nigeria is rich in wildlife, aquatic and terrestrial biodiversity which is a major source of rural life sustenance as well as play vital role in ecosystems stabilization.³³ The soil protects the plants and the roots, helping them retain water.³⁴ Forests do the same thing for our environment. They provide shelter, water, building materials, and food for livestock and hunters. Forests and trees are important in the progress of our country because they provide economic development.³⁵ Furthermore, forests act as sanctuary for rare and or endangered animals; act as storm breaks, thereby protecting the towns and villages against destruction from various winds in their violence; provide useful products such as timber or wood and char-coal for fuel, fiber for paper and textiles, medicine from the bark and leaves of some plant, breeding ground for animals, check erosion, and supply of food and materials for building houses.³⁶ The customs, practices and beliefs of indigenous people, in the past, strictly secured forestry. Okediran³⁷ opines that village known as *Igbo-Ile* within the old village organisation paved the way for the establishment of forest

³² Ibid.

Ogunwale, A. O. 2015, "Deforestation and Greening the Nigerian Environment," International Conference on African Development Issues (CU-ICADI) 2015: Renewable Energy Track. Culled from: <http://eprints.covenantuniversity.edu.ng/5327/1/Paper%2055.pdf> on 11 September, 2018 at 3:10am.

³³ Ibid.

³⁴ Omofonmwan S. I. and Osa-Edoh G. I., 'The Challenges of Environmental Problems in Nigeria' (2008), 23(1) Hum. Ecol. 53-57, Culled from <http://www.krepublishers.com/02-Journals/JHE/JHE-23-0-000-000-2008-Web/JHE-23-1-000000-2008-Abst-PDF/JHE-23-1-053-08-1650-Omofonmwan-S-I/JHE-23-1-053-08-1650-Omofonmwan-S-I-Tt.pdf> on 11 September, 2018 at 3:45am.

³⁷ Okediran, A. Y., 1996. Convention, Customs and Community Participation in Natural Resources Conservation in Nigeria- Doing so Little With so Much, Ibadan University Law Essays, J. D. Ojo, ed, 1996. P. 62.

reserves in their Region.³⁸ For example, an Igbo-Ile was founded at *Isale-Ijebu* area of Ibadan. The forest land is also referred to as *Igbo-Aiwo*.³⁹ Modernisation and development have put the latter heritage to extinction in many ethnic settlements in Nigeria today. The increasing rate of deforestation can be reduced if some customary practices and laws are infused into the statutory legislations on deforestation in Nigeria.

Land Use System: Land use system under customary tenancy has been expunged in the Land Use Act.⁴⁰ What is known as customary tenancy in Nigeria land law arises where a person who has the legal capacity to do so permits, grantor is deemed to have granted to another, usually a stranger who is not a member of the land holding group such as the family or community, the right of possession or use of the land for a specified or an indefinite period of time with the intention that the use of the land shall revert to the grantor when the purpose for which the right is conferred has been fulfilled.⁴¹ Under customary law of by-gone days, absolute alienability of land was not permitted but the custom began to change in response to the social needs of the community.⁴² The change in customary land use vis-a-vis statutory provisions on customary use of land has hampered the rich preservation and land control systems among various ethnic people in various tribal settings in Nigeria. The recent increase of Fulani herdsmen conflicts with some communities borders on the land use system and environmental challenges.

Conservation of Environmental Resources: Customary law, before the advent of the British Colonial Administrators, was in force in various ethnic settlements to conserve wildlife and biodiversity, though in rudimentary forms. The Nigerian Supreme Court stated that customary laws were formulated from time immemorial as our society advances, they are more removed from its pristine social ecology.⁴³ Hunters, fishermen, farmers and herdsmen were being prevented under customary law to conserve certain wildlife biodiversity in the communities. The conservation of wildlife and the biodiversity were strictly enforced taboo, command, custom and precedent.⁴⁴ The annual *Argungu* Fishing Festival in Kebbi State in Nigeria is one of the sustained customary practices that brings fishing prowess into display among the people.⁴⁵ The festival is embedded in customs that preserve and sustain development in the community.

Loss of Fauna and Flora: The term fauna and flora refers to plants and animals. Most indigenous communities have been customarily conserving fauna and flora in Nigeria, but rapid developments and monumental projects have been reducing the conservations. Habitat degradation and overexploitation of wildlife are one of the major threats to forest and wildlife

³⁸ Ibid.
³⁹ Ibid.

⁴⁰ Chapter L5 Laws of the Federation of Nigeria 2004.

⁴¹ Agbosu, L. K. 1983, "Extinction of Customary Tenancy in Nigeria by the Land Use Act: Akinloye v. Ogungbe." *Journal of African Law* Vol. 27, No. 2 (Autumn, 1983), pp. 188.

⁴² Okay, M. C. op. cit at p. 40.

⁴³ In the case of *Agbai v. Okogbue* (1991) 7 Nigerian Weekly Law Report (Part 24) at 391.

Details on enforcements of customary laws is in: Oyewo, A. T. and Olaoba, O. B., (1999) *A Survey of African Law and Custom with Particular Reference to the Yoruba Speaking People of South Western Nigeria*, Ibadan.

⁴⁵ Early referred to above.

in Nigeria.⁴⁶ Dr. Muhtari Aminu-Kano, the Director-General, Nigerian Conservation Foundation, says the activities of forest poachers and illegal lumbers can make the country lose its unique flora and wildlife if left unchecked.⁴⁷ The realisation that protecting megafauna without the plants and vegetation habitats on which they depend led to some re-thinking of conservation strategies.⁴⁸ Conserved fauna and flora are factors to sustainable development if the customary media are utilised for their conservations. Inappropriate government policies as well as a failure to enforce existing policies for protection of flora and fauna have also contributed to their decline.⁴⁹ In the past many development, projects, by African governments (Nigeria inclusive) failed to adequately consider and protect natural habitats or sensitive ecosystems and many states did not impose a compulsory obligation to carry out environmental impact assessment.⁵⁰

Protection of Water Resources: Water is vital to human beings, animals, plants, and life cannot exist in its absence.⁵¹ In Nigeria, Water is widely regarded as the most essential of natural resources, yet freshwater systems are directly threatened by human activities and stand to be further affected by anthropogenic climate change.⁵² Water systems are affected by intensive agricultural activities; urban development, industrialization and unplanned engineering infrastructures. Unplanned agricultural practices arising from lack of adequate extension workers and largely un-mechanised procedures leave farmers with the option of bush burning as the only site clearing method.⁵³ Abundant water resources in Nigeria are essential to sustainable development, the customary uses of water resources and monument projects demand cooperative measures to utilization of the resources.

Relevance of Customary Law to the Environmental Sustainability

Customary law, among indigenous peoples in many communities in Nigeria, is still relevant to environmental sanitation. The customs and practices of indigenous people are guided by customary law on disposal and treatment of human excreta, solid waste, wastewater, and preservation of sources of drinkable waters. Rural dwellers in Nigeria work together in egalitarian ways to form a hygienic environment. Traditional African society, Nigeria inclusive,⁵⁴ places emphasis on groups, those groups could be family, kindred, hamlet, village, clan, tribe, age grade, and associational groups.⁵⁵ Rights, duties and obligations are

Nigeria Conservation Foundation, 2019. "Nigeria in danger of losing flora, wildlife to poaching, illegal lumbering." *The Punch Newspaper* of February 5, 2019. P.

⁴⁷ Ibid.

⁴⁸ Isiche, A. O. Endangered Plants In Nigeria: Time For A New Paradigm For Vegetation Conservation. *The Nigerian Field*, (Parts 1 & 2), 64 – 84. Culled from: https://www.researchgate.net/publication/224909195_Endangered_plants_in_Nigeriatime_for_a_new_paradigm_for_vegetation_conservation_The_Nigerian_Field_Parts_1_2_64_-_84 on October 12, 2018.

⁴⁹ Erinosh, B. T., *Environmental Law in Africa*. Krafts Books Limited: Ibadan, 2015. P.

⁵⁰ Ibid. The bracket is for emphasis.

⁵¹ Ibid. p. 141.

⁵² Idu AJ (2015) Threats to Water Resources Development in Nigeria. *J Geol Geosci* 4:205. doi:10.4172/2381-8719.1000205

⁵³ Ibid.

⁵⁴ Emphasis is mine.

Ngwakwe, E. C., *African Customary Law: Jurisprudence, Themes and Principles*. (2013: Ave Maria Academic Publishers, Abakaliki, Nigeria), p. 78.

structured along the lines of these groups. And law is also meant to protect these patterns of human relations.⁵⁶ Middle-aged groups in most of the rural community are given responsibilities to ensure that the communities' environmental sanitations are observed. The practice can help to strengthen the urban environmental sanitations as well. Such practice will enhance sustainable development at every human settlements in Nigeria.

As part of conservation, the traditional people classify and zone their entire landmass into thick and lower forests and groves. The lower groves are utilised for farming, housing and social needs. The thick forests are not cultivated or utilised for any economical purpose.⁵⁷

Comparative Analysis of Other African Countries

A comparative analysis among few African countries shows that other African customary laws are concerned with the environment and sustainable development from time immemorial. For example, among the Akan community which forms the majority ethnic group in Ghana, water bodies are associated with the gods or *abosom* and are used in accordance with strictures and rules that are relayed to the local folks by fetish priests who are the mouthpiece of the gods.⁵⁸ Customary laws mandate users to keep lakes and rivers pure because they are regard as the dwelling place of the gods (*abosom*).⁵⁹ The *abosom* were highly revered and feared in the past and even they are still accorded that respect by some Ghanaians⁶⁰. It is believed that, these gods are highly endowed with divine powers and will strike defaulters dead instantly with no mercy nor give a second chance.⁶¹ In the past, our ancestors used a very astute way to protect the water bodies and avoided many water related diseases.⁶² Those part of the river used for bathing, swimming, or for watering crops and washing domestic animals were found downstream in relation to those used as a sources of drinking water.⁶³ In another perspective, South Africa is one of the most multicultural countries in the world. In urban areas many different ethnic groups will make up the population.

Conclusion

In conclusion, it is essential for the governments at every level, every stakeholder and statutory institutions to collaborate and ensure that customary laws enhance conservative preservation of the environment. Every stakeholder must protect and uphold customary laws that are still relevant to various communities in Nigeria which are very impactful to improving the environment and sustainable development. Although there are various limitations on the applicability of the customary law, needs still arise to utilise the relevant ones that are useful to the environmental protection. The position of this article is to expand

⁵⁶ Ibid.

⁵⁷ Amokaye, G. A. Op. Cit at page 9.

⁵⁸ Elvis Acheampong, The Role of Ghanaian Culture and Tradition in Environmental Sustainability. Culled from: <https://www.modernghana.com/news/306123/1/the-role-of-ghanaian-culture-and-tradition-in-envi.html> on 11 September, 2018 at 6:43am.

Ibid.

Ibid.

⁶² Ibid.

Ibid.

the scope of importance attached to the environment is not to jettison the valuable available Nigerian statutory provisions on the environmental challenges and sustainable developments issues, it is to reinforce practical approach to actualise the purposes of the legislation through the tenets and principles of customary law. However, if the customary laws are strictly applied to the issues of the environment for sustainable development.

The more the environment is conserved, the more the development in every society. Towards this end, the customary law, sustainable environment and development cannot be separated from each other. There should be strong harnessing of the factors together.

Some of the customary laws of various ethnic settlements in Nigeria can be enacted to suit the purpose the customary laws are achieving among the people. The issue of climate change governance which goes deeper to the notion of adaptation and mitigation demands the participations of indigenous people in the various communities in Nigeria. Customary laws as UNEP considers them relevant, must be given legal flavor in Nigerian legal system.

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