

**THE ROLE OF LAWYERS IN FACILITATING LAND RESTORATION IN NIGERIA: LEGAL STRATEGIES AND CHALLENGES\***

**Abstract**

*Lawyers are known as part of the social engineers responsible for affecting survival of man on earth. Environment on the other hand is an essential part of the earth and key to survival of man. With constant land degradation which affects the environment some of which is occasioned by non-natural elements, it becomes imperative that man this time a lawyer should get involved in seeking a restoration of the balance to avoid a system breakdown which will affect all living things. The work adopts the doctrinal method and seeks also detailed information from the internet among other sources. The work finds out that land degradation affects the earth and whatever affects the earth also affect the lives of the inhabitants of the earth. The work further discovers that as social engineers Lawyers have an essential duty to adopt the law in checkmating the issue of land degradation for the welfare of the entire human race. It will also be recommended that all lawyers where possible should engage in pro bono actions to protect the environment and as well facilitate land restoration for the welfare of the earth and her inhabitants.*

**Keywords:** Lawyers, Environment, Survival, Degradation, Earth

**1. Introduction**

Nigeria, Africa's most populous nation, faces significant land degradation challenges due to deforestation, desertification, erosion, and unsustainable agricultural practices which in most cases are man-made. The loss of arable and habitable land poses serious threat to food security, biodiversity, security, shelter and the livelihoods of millions of Nigerians. In response, land restoration has emerged as a critical strategy for reversing environmental degradation. Lawyers in Nigeria have a pivotal role to play in facilitating these efforts by leveraging various legal frameworks, including environmental law, alternative dispute resolution, land rights, and property dispute resolution. However, they also face numerous challenges, including regulatory hurdles, weak enforcement mechanisms, and the need for effective advocacy on behalf of affected communities. It is imperative to bear in mind that the 2030 Agenda for sustainable development adopted by all United Nations member states in 2015, provides a shared blueprint for peace and prosperity for people and the planet, now and into the future. At the centre of these are the 17 sustainable Development Goals (SDGs) which make urgent call for action by all countries. These goals understand that ending poverty and other deprivations must go hand-in-hand with strategies that improve health and education, reduce inequality, and spur economic growth – all while tackling climate change and working to preserve our oceans and forests. The key thing at the centre of these goals is the environment, hence environment takes a center stage when talking about improving health and education, reducing inequality and spurring economic development and then tackling the issue of climate change and ensuring we protect our oceans and forests may land. In achieving these very important goals, a lawyer as a social engineer is to be at the forefront deploying all his legal arsenals to deliver and make impacts.

**2. Conceptual Clarifications**

**Lawyers**

A lawyer is one who knows the law and is trained and licensed to prepare, manage, and either prosecute or defend a court action as an agent for another or for himself and who also offers advice on legal matters that may or may not require court action. A lawyer is a learned mind and stands in a better position to define from the books of law that which is legal or illegal. In Nigeria, a Lawyer is the general name for someone who studied law and has been called to the Nigerian Bar.<sup>1</sup> A lawyer is also referred to as a legal practitioner. In the context under discourse, and since the audience is mainly lawyers, there seems no need to elaborate on this but suffice it to state that a lawyer is a learned man who has been called to the Nigerian Bar and practices either as a solicitor or advocate or both.

**Environment**

The term environment was said to have been derived from a French word 'Environia' which means to surround. It refers to both abiotic (physical or non-living) and biotic (living) environment. The word environment means surroundings, in which organisms live. Environment and the organisms are two dynamic and complex components of nature. Environment regulates the life of the organisms including human beings. Human beings interact with the environment more vigorously than other living beings. Ordinarily environment refers to the materials and forces that surround the living organism. Environment is the sum total of conditions that surrounds us at a given point of time and space. It is comprised of the interacting systems of physical, biological and cultural elements which are interlinked both individually and collectively. Environment is the sum total of conditions in which an organism has to survive or maintain its life process. It influences

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<sup>1</sup>The Role of Lawyers in Nigeria: Defining the Relevance of a Legal Practitioner in Nigeria - Miebaka Godslight Koko Jnr - LawGlobal Hub accessed on 2/10/2024 at 10.00am

the growth and development of living forms. In other words, environment refers to those surroundings that surrounds living beings from all sides and affect their lives in toto. It consists of atmosphere, hydrosphere, lithosphere and biosphere. Its chief components are soil, water, air, organisms and solar energy. It has provided us all the resources for leading a comfortable life.

Environment mainly consists of atmosphere, hydrosphere, lithosphere and biosphere. But can be roughly divided into two types such as (a) Micro environment and (b) Macro environment. It can also be sub divided into two other types such as (a) Physical and (b) biotic environment. Micro environment refers to the immediate local surrounding of the organism. while Macro environment refers to all the physical and biotic conditions that surround the organism externally. On the other hand, Physical environment refers to all abiotic factors or conditions like temperature, light, rainfall, soil, minerals etc and comprises of atmosphere, lithosphere and hydrosphere while Biotic environment includes all biotic factors or living forms like plants, animals, Micro-organisms.<sup>2</sup> Environment was further defined by the Supreme Court of Nigeria by borrowing the Oxford definition thus, “The Oxford Advanced Learner's Dictionary, 5th edn, page 387 defines ‘environment’ as ‘the natural conditions, for example land, air and water, in which people, animals and plants live: measures to protect the environment’<sup>3</sup>. The essential take away from these definitions is that the environment is part of us and hurting the environment hurts us. An unhealthy environment will definitely make an unhappy mankind.

### **Land Restoration**

According to SNC Obi, Land is a deity, the source of all life, of food and fertility, the custodian of social norms and morals. Both as a good and as a legal person, some form of respect and tribute is due to mother earth<sup>4</sup>. This definition pays homage to the nature of land as it is known. However, it is imperative to state that since our major aim here is to discuss land restoration, it is sufficient to understand that land is a major asset not only in Nigeria but in the whole Africa at least. Land restoration, on the other hand is ‘the ecological process to restore a natural and safe landscape for humans, wildlife, and plant communities. This process paves the way to protect our ecosystems, create economic development, help prevent natural disasters such as floods, and increase soil productivity and food supplies. In short, land restoration is vital if we are to protect the environment, build resilience to drought, and help feed a growing global population’.<sup>5</sup> It is further stated that the economic benefits of land restoration are huge. A UNEP study revealed that half of the world’s GDP is dependent on nature, and every dollar invested in restoration generates up to USD 30 in benefits. Land restoration is at the core of the UNCCD’s mission, as actions that protect and revitalize land resources such as soil, water and biodiversity are critical to achieving Land Degradation Neutrality (LDN) by 2030. The truth of the matter is that failure to get involved in land restoration creates room for land degradation which in turn affects us in several ways hence the necessity for the sustainable development goals of the UN.

### **3. Legal Frameworks for Land Restoration in Nigeria**

Nigeria’s legal framework for land restoration is shaped by a combination of international commitments, national environmental laws, and local land tenure systems. Lawyers must navigate these complex frameworks to support land restoration initiatives effectively.

#### **International Environmental Commitments**

Nigeria is a signatory to several international conventions that provide a legal basis for land restoration efforts. Nigeria, as a prominent African nation, faces significant environmental challenges. Its legal framework for environmental protection is crucial for sustainable development. It is common knowledge that Nigerian law comprises numerous statutes, regulations, and guidelines aimed at protecting the environment. These laws address various environmental issues, including pollution, waste management, and conservation. In line with her international responsibilities, Nigeria has ratified several international environmental agreements. These agreements include the Paris Agreement, the Convention on Biological Diversity, and the Basel Convention. Nigeria is also a signatory to the United Nations Convention to Combat Desertification (UNCCD). It is important to say that the Nigerian law incorporates these international policies to ensure compliance with global standards. The Federal Ministry of Environment oversees the implementation of these policies and works in collaboration with other government agencies and non-governmental organizations for effective implementation.

#### **United Nations Convention to Combat Desertification**

As a party to the UNCCD, Nigeria looks out for the Northern Nigeria which is particularly vulnerable to desertification, and the UNCCD provides a framework for lawyers to advocate for sustainable land management practices in the region. Lawyers use this convention to hold the government accountable for its obligations under the agreement, including

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<sup>2</sup>Puja Mondal, Meaning, Definition and Components of Environment, online article available online at <https://www.yourarticlelibrary.com/environment/meaning-definition-and-components-of-environment/6157#> accessed on 2/10/2023 at 10.09 am

<sup>3</sup> *AG Lagos State v Ag Federation & Ors* (2003) Lpelr-620(Sc)

<sup>4</sup> SNC Obi, *The Ibo Law of Property*, Butterworth Africa Law Series No 15, 1965 p.30

<sup>5</sup> Land management & restoration | UNCCD

implementing policies that promote land restoration. The UNCCD, has a number of governing bodies: the Conference of Parties (COP), the Committee on Science and Technology (CST), The Committee for the Review of the Implementation of the Convention (CRIC), and Intergovernmental Working Groups (IWG). These bodies make sure that UNCCD is accountable, effective, efficient, inclusive, responsive, transparent. They ensure that the organization in following the rule of law embraces a participatory and consensus-oriented approach. Lawyers are encouraged to be part of UNCCD and to adopt the protocol available under the UNCCD to checkmate land degradation and encourage land restoration. A lawyer therefore can join as part of the Land Ambassadors and adopt measures which are in line with the UNCCD vision and advocate for land restoration.

### ***The Paris Agreement***

The Paris Agreement is a legally binding international treaty on climate change. It was adopted by 196 Parties at the UN Climate Change Conference (COP21) in Paris, France, on 12 December 2015. It entered into force on 4 November 2016. As a party to the Paris Agreement, Nigeria is committed to addressing climate change, which includes reforestation and other land restoration projects. Lawyers can advocate for the implementation of climate policies that prioritize land restoration as part of Nigeria's Nationally Determined Contributions (NDCs). This agreement requires economic and social transformation, based on the best available science. The Paris Agreement works on a five-year cycle of increasingly ambitious climate action carried out by countries. The Paris Agreement reaffirms that developed countries should take the lead in providing financial assistance to countries that are less endowed and more vulnerable, while for the first time also encouraging voluntary contributions by other Parties. Climate finance is needed for mitigation, because large-scale investments are required to significantly reduce emissions. Climate finance is equally important for adaptation, as significant financial resources are needed to adapt to the adverse effects and reduce the impacts of a changing climate. It also speaks of the vision of fully realizing technology development and transfer for both improving resilience to climate change and reducing greenhouse gas emissions. It establishes a technology framework to provide overarching guidance to the well-functioning Technology Mechanism. The mechanism is accelerating technology development and transfer through its policy and implementation arms. Finally, the Paris Agreement understands that not all developing countries have sufficient capacities to deal with many of the challenges brought by climate change and as a result, the Paris Agreement places great emphasis on climate related capacity building for developing countries and requests all developed countries to enhance support for capacity-building actions in developing countries<sup>6</sup>. Lawyers who are engaged in land restoration has lots of roles to play under the Paris agreement one of which is to ensure compliance with the terms of the agreement and as well pushing for credible governance on the basis of the Paris Agreement.

### **National Environmental Laws**

Nigeria has enacted several environmental laws aimed at protecting the environment and promoting land restoration. Key pieces of legislation that lawyers can use in land restoration cases include:

#### ***Environmental Impact Assessment Act 1992***

This law mandates that an Environmental Impact Assessment (EIA) be carried out before any major project, including land development and restoration initiatives. Lawyers are to ensure that these assessments are conducted properly and challenge projects that could further degrade the land. The reality on the ground is that so many projects these days do not have EIA reports. A recent example is that Super Highway from Lagos to Calabar which had commenced before it was discovered that there was no EIA on the project. Every project is likely to impact the environment. These days real estate developers hamper free flow of the sea with the sole aim of erecting structures. Some even block major drainages and these activities affect the land negatively giving rise to land degradation. Lawyers are expected to challenge such using pro bono actions.

#### **National Environmental Standards and Regulations Enforcement Agency (NESREA) Act 2007**

NESREA is responsible for enforcing environmental laws and regulations. Lawyers are expected to use the provisions of this act to pursue the enforcement of environmental standards, particularly where land degradation has occurred, and advocate for restoration as part of compliance efforts. The dump sites, the burning of non-degradable wastes and the illegitimate dumping of waste materials are actions Lawyers can challenge and in so doing save land degradation.

#### **Forestry Act 1937**

Though outdated, this law still governs forest conservation in Nigeria. Lawyers can use this law to challenge illegal deforestation activities and promote afforestation as a key aspect of land restoration. As a result of the increasing costs of cooking gas and kerosene, there is an increase in the felling of trees for use as firewood. Again, most developers fell trees and in their place construct landscapes made with stones. There is no more provision for green hedges as was the issue in the early 60s and 70s. The deforestation creates lack of trees which in itself impacts on the land's ability to absorb rainfall and the availability of oxygen for increasing number of human beings.

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<sup>6</sup> The Paris Agreement | UNFCCC

### **Land Use Act 1978**

The Land Use Act is one of the most important legal instruments governing land rights in Nigeria. It vests all land in each state under the control of the state governor, who holds it in trust for the people. While this law aims to simplify land ownership and management, it also presents challenges for land restoration. Under the Land Use Act, rural and indigenous communities may lose control over their ancestral lands, especially in cases of government expropriation or large-scale agricultural and industrial projects. Lawyers play a critical role in defending these communities' land rights and advocating for their inclusion in restoration projects. Lawyers may also in navigating the complexities of the Land Use Act, seek measures to secure land for restoration projects, whether by negotiating with state governments for restoration permits or ensuring that local communities are not displaced.

### **4. Legal Strategies for Facilitating Land Restoration in Nigeria**

There are various mechanisms available to the Nigerian Lawyer in facilitating land restoration. These measures include litigation and policy advocacy, dispute resolution and finally collaboration with civil society organizations. We shall take these measures albeit briefly one after the other.

#### **Litigation and Enforcement**

Litigation remains one of the most effective tools for compelling compliance with environmental laws and promoting land restoration. Nigerian lawyers use both public interest litigation and specific environmental laws to enforce land restoration. In *Centre for Oil Pollution Watch v NNPC*, the Court held thus, 'Both nationally and internationally, countries and organizations are adopting stronger measures to protect and safeguard the environment for the benefit of the present and future generations.'<sup>7</sup>The issue of environmental protection against degradation has become a contemporary issue and which has led to the liberalization of the locus standi for environmental matters. Further Section 20 of the Constitution provides for the Environmental objectives of the State to include the protection and improvement of the environment and safeguarding the water, air and land, forest and wild life of Nigeria. A frequent occurrence on this is whether this is justiciable. While we have always held that it is not justiciable, there are measures to adjust the provision under fundamental rights and seek for its enforcement especially considering that environmental matters are human rights matters. It is the correct position that Human rights and the environment are intertwined; human rights cannot be enjoyed without a safe, clean and healthy environment; and sustainable environmental governance cannot exist without the establishment of and respect for human rights. Further, Environmental rights are composed of substantive rights (fundamental rights) and procedural rights (tools used to achieve substantial rights). Substantive are those in which the environment has a direct effect on the existence or the enjoyment of the right itself. Substantive rights comprise of: *civil and political rights*, such as the rights to life, freedom of association and freedom from discrimination; *economic and social rights* such as rights to health, food and an adequate standard of living; *cultural rights* such as rights to access religious sites; and *collective rights* affected by environmental degradation, such as the rights of indigenous peoples while Procedural rights prescribe formal steps to be taken in enforcing legal rights. Procedural rights include fundamental access to rights, access to information and public participation and access to justice.<sup>8</sup>

The human rights framework under the UNSDG, provides an unassailable moral and legal justification for immediate and urgent action to protect the environment for the benefit of all persons. Environmental sustainability and the promotion, protection and fulfilment of human rights are complementary objectives at the core of sustainable development. Ecosystems and the services they provide directly contribute to the full enjoyment of human rights. States have clear human rights obligations to prevent the adverse impacts of environmental degradation on the enjoyment of human rights and to protect environmental human rights defenders. Additionally, businesses have a responsibility to respect human rights, do no harm, and exercise due diligence in carrying out their activities. In the event that environmental and human rights harms occur, both States and businesses have obligations to ensure access to effective remedies.<sup>9</sup> It therefore becomes imperative with the enlargement of the scope for locus that Lawyers can exercise these rights to ensure that the environment is protected for the sake of all leveraging their roles as social engineers.

#### **Policy Advocacy and Legislative Reform**

Lawyers play a crucial role in shaping environmental policy in Nigeria by working with lawmakers, civil society organizations, and international bodies to advocate for stronger legal frameworks that promote land restoration. These they can do by lobbying for Environmental Law Reforms. Nigerian lawyers, often in collaboration with environmental NGOs, advocate for the reform of outdated laws, such as the Forestry Act, and the development of new policies that support large-scale reforestation and sustainable land management. The Lawyers also have the latitude to play on a bigger field by aligning with the UN in the advocacy for environmental restoration of which land is part of. Nigerian Lawyers have also been advocating for the reform of the Land Use Act considering the controversies it has created over the past 40 years plus. This advocacy is in particular to community land rights, and ensuring ensure that restoration projects do not displace local populations or conflict with traditional land-use practices.

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<sup>7</sup>SC. 319/2013 judgment delivered on the 20<sup>th</sup> of July, 2018

<sup>8</sup><https://www.unep.org/explore-topics/environmental-rights-and-governance/what-we-do/advancing-environmental-rights/what#:>

<sup>9</sup> <https://unsdg.un.org/sites/default/files/2020-03/Human-Rights-and-the-Environment.pdf?>

### **Mediation and Conflict Resolution**

Disputes over land ownership, resource allocation, and land degradation are common in Nigeria, particularly in rural areas. Lawyers often act as mediators in these disputes, helping to resolve conflicts between landowners, communities, and government agencies. The advent of ADR has also encouraged peaceful settlement of land disputes. This further encourages the cordial settlement that will also give rise to a joint and collaborative efforts at restoring land degradation in Nigeria. In the course of adopting this, lawyers can also facilitate the resolution of disputes between communities and the government, ensuring that land restoration efforts do not infringe on the rights of local populations. In some cases, lawyers negotiate compensation for communities whose lands have been degraded by industrial activities.

### **Collaborating with Traditional and Community Leaders**

In many parts of Nigeria, traditional and community leaders play a significant role in land management. Lawyers often work with these leaders to integrate customary land tenure systems into formal restoration efforts, ensuring that projects respect local traditions and land-use practices. Advocacy and community engagements especially enlightenment engagements will also encourage land restoration as the enlightenment programme will also increase the awareness of the settlers as regards harmful land practices that affect land restoration.

## **5. Challenges Faced by Lawyers in Land Restoration in Nigeria**

While lawyers play a critical role in facilitating land restoration, they also face several challenges, particularly related to Nigeria's regulatory environment, limited resources, and political and economic pressures.

### **Weak Enforcement of Environmental Laws**

Nigeria has a robust set of environmental laws, but enforcement remains weak due to corruption, political interference, and limited government capacity. Lawyers often struggle to ensure compliance with these laws, particularly when powerful corporate or political interests are involved. Poverty is also a major link to land degradation and it is also one of the challenges that Lawyers face. In many cases, environmental regulatory agencies, such as NESREA, are underfunded or influenced by powerful interests, making it difficult for lawyers to compel enforcement of environmental standards. Delayed Judicial Processes is another challenge faced by lawyers. This is because Nigeria's legal system is often slow, with cases taking years to resolve. This delay can hinder timely restoration efforts, particularly in urgent cases of land degradation, such as oil spills or deforestation.

### **Challenges with the Land Use Act**

The Land Use Act presents several challenges for land restoration, particularly in terms of securing land for restoration projects and protecting community land rights. Because the Land Use Act vests control of land in the hands of state governors, lawyers often face challenges in securing government approval for restoration projects. In some cases, state governments prioritize industrial or agricultural development over restoration, creating conflicts with environmental goals. Again, many rural communities in Nigeria do not have formal land titles, making it difficult for lawyers to defend their land rights in restoration projects. This insecurity can lead to conflicts between communities and the government, particularly when land is expropriated for development or conservation projects.

### **Advocacy for Marginalized Communities**

Lawyers working on land restoration in Nigeria often represent marginalized communities, including rural farmers, indigenous groups, and communities affected by environmental degradation. However, these communities often lack the resources to access legal representation. Further, many communities affected by land degradation, particularly in remote areas, lack access to legal representation. Lawyers working on land restoration cases often do so on a *pro bono* basis or rely on funding from NGOs, which can limit the scope of their work. In some other cases, land restoration projects may conflict with the livelihood needs of local communities, such as farmers who rely on degraded land for subsistence agriculture. Lawyers must navigate these conflicts to ensure that restoration efforts are equitable and inclusive.

## **6. Conclusion**

Lawyers play an essential role in facilitating land restoration in Nigeria by leveraging legal frameworks, advocating for policy reforms, and mediating disputes between stakeholders. However, they face significant challenges, including weak enforcement of environmental laws, regulatory hurdles related to the Land Use Act, and the need to balance restoration efforts with the rights and needs of local communities. As Nigeria continues to grapple with land degradation, lawyers will remain crucial in advocating for sustainable land management and the restoration of the country's vital ecosystems for the sake of all human beings and the environment.

Thank you for listening.