

**THE LEGAL FRAMEWORK FOR ENVIRONMENTAL CONSERVATION AND
SUSTAINABLE DEVELOPMENT:
NIGERIA IN FOCUS**

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ABSTRACT

The Nigeria environment like other national environments, had been a victim of human exploitation. The era of industrial revolution will forever remain important in human history, for the fact among others, that it marked the beginning of man destroying his environment through his activities. In the quest for economic and social development, industries polluted the environment freely and disturbed the ecosystem. Almost every country witnessed wanton clearing of land for building of industries, schools, over exploitation of wildlife and marine resources, emitting of poisonous gases like chlorinated hydrocarbons into the atmosphere by industrial machines and automobiles, pouching, pollution of marine environment from industrial waste, uncontrolled depletion and ravaging of natural resources; partly by reasons of the explosive growth of human populations and partly as a result of the demands of industrial technology and of recent, in some countries like Nigeria, environmental pollution relating to exploitation of oil. In Nigeria, the Concept of conservation as a strategy of rational utilization and management of rational utilization and management of available resources dates back to the colonial days. At that time it was used as a tool of administration for the implementation of nature conservation policies of colonial administration which was essentially linked to the economic interest of the home country. Thus conservation of natural resources was to ensure a steady supply of the needed raw materials. In line with global trends, emphasis has shifted beyond mere development to sustainable development. Sustainable development plans look beyond the welfare of the present generations to that of future generations. The quest for environmental conservation for sustainable development brought about the need for legislations that will conserve the environment and thus enhance sustained development, since laws and policies are salient tool of social ordering expected to reverse specific human attitudes, activities or beliefs which are not conservative friendly in order to secure a safe and healthy environment for the present generations and generations yet unborn.

KEY WORDS: *Environment, Conservation, Sustainable Development*

INTRODUCTION

Forests and grasslands together occupy almost 60 percent of global land cover. These ecosystems provide many of our essential resources, such as lumber, paper pulp, and grazing lands for livestock. They also provide essential ecological services, including regulating climate, controlling water runoff, providing wildlife habitat, purifying air and water, and supporting rainfall. Forests and grasslands also have scenic, cultural, and historic values that deserve

protection. However, forests and grasslands are also among the most heavily disturbed ecosystems. Most outcry over conservation have concerned protection or use of natural resources. Prairies & Rangelands (2008).

In Nigeria at present the destruction of natural habitats continues unabated, resulting in the depletion of the country's biodiversity. Forestry experts have reported that about 65 of Nigeria's 560 species of trees are at different stages of risk. Every year a considerable part of the nations forest resources are destroyed through industrialization, commerce, agriculture and the activities of rural dwellers, thereby disturbing the balance that nature maintains with the living and non-living resources. Nathaniel & Nathaniel (2005). The destruction of natural vegetation; of indigenous bush; of coastal dunes and forest; and of mangrove areas, in order to clear the way for construction to take place is clearly an act that causes considerable and irreversible environmental degradation. Omaka (2004).

The Concept of conservation as a strategy of rational utilization and Management of rational utilization and management of available resources dates back to the colonial days. At that time it was used as a tool of administration for the implementation of nature conservation policies of colonial administration which was essentially linked to the economic interest of the home country. Thus conservation of natural resources was to ensure a steady supply of the needed raw materials. Okorodudu- Fubara (1989). Sustainable development plans look beyond the supply of the needed raw materials and the welfare of the present generations to that of future generations. It is about meeting the needs of today without compromising the needs of future generations. It is about improving the standard of living by protecting human health, conserving the environment, using resources efficiently and advancing long term economic competitiveness. It requires the integration of environmental economic and social priorities into policies and programs and requires action at all levels-citizens, industry and Government. Weiss (1989). In order to achieve sustainable development, environmental protection shall constitute an integral part of the development process, and cannot be considered in isolation from it. The right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations.

DEFINITION OF CONCEPTS

Environment. The Black's Law dictionary(1999) defines the environment as 'the totality of physical, economic, cultural, aesthetic and social circumstances and factors which surround and affect the desirability and value of property, and which also affect the quality of people's lives'.

The National Environmental Standards and Regulations Enforcement Agency (Establishment) Act 2007, defines environment to "include water, air, land and all plants and human beings or animals living therein and the inter-relationships which exist among these or any of them"

The term was judicially defined by the Supreme Court of Nigeria in the case of Attorney General of Lagos State v The Attorney General of the Federation and others (2003) to connote the natural conditions, for example Land, Air, and water in which people, animals and plants live.' In the most general sense environment refers to our surroundings. It should be understood not just to mean only air, land, and water, but also the built, local and international environment. From the above different definitions of the Environment, it is clear that a broad perception of the environment is generally accepted them the narrow view expressed by a learned professor (Uchegbu, 1987-1988:58) who views the environment simply as a "product or creature of Nature" and nothing more.

Conservation. Conservation is defined as the judicious use to avoid wastage of materials and degradation of the environment. Tutorvista (2013). It also implies the sustainable use as well as management of natural resources which include wildlife, water, air and earth deposits. Feelfriendly (2013). For the Rights Based Approach (2013), they conceived conservation as the management of human use of biosphere in order for it to yield the greatest sustainable benefits to current generations while maintain its potential to meet the needs and aspirations of the future generation, Conservation is thus positive, embracing, preservation, maintenance, sustainable utilization, restoration, and enhancement of the natural environment. It simply serves as an instrument for addressing the interrelationship between human well-being and the environmental objectives, by harmonizing nature conservation activities with respect right of the present generation and the future generation. It integrates rights norms, standard and principle in policy, planning, implementation, and evaluation to help ensure that conservation practice respects rights in all cases and supports their further realization where possible.

Environmental Conservation. Therefore, involves the conservation of the natural resources. The non-renewable resources have to be conserved as they cannot be replenished. The renewable resources too has to be judiciously used, though they are replenished, they are subjected to a lot of pollution that renders them useless. Environmental conservation generally focuses on the needs and interest of human beings, for instance the biological, economic, cultural and values. We have the view that development is necessary for a better future, but only when the changes occur in ways that are not wasteful. A conceded environment provides us with the resources needed to sustain life. From food and clean water, to medicines and raw materials. It also maintain global biodiversity and the productivity and resilience of ecological systems. However, in Nigeria, and in many places around the globe this natural capital is being spent faster than it can be renewed. Gorden & Betty(2013). Environmental conservation is influenced by three interwoven factors which are Environmental legislation, Ethics and Education. Each of these factors plays its part in influencing national-level environmental protection to become a reality. It is important for societies to develop each of these areas that together, will inform and drive environmental decisions.

Sustainable Development. The term sustainable development is complex. The term unifies conservation of nature resources and development. According to the 1987 Brudtl and Commission Report, Sustainable Development, " is development that meets the needs of the present without compromising the ability of future generations to meet their own needs". The world commission on Environment and development emphasis's the fact that sustainable development is vital to the well-being of humanity not only today but in the context of future generations." The National Policy on the Environment adopts the notion of sustainable development which refers "to the judicious and planned use of natural resources for equitable development to meet the needs of the present generation without jeopardizing that of the future generation". The notion of sustainable development is acknowledged subject of much recent thinking. However little headway appears to have been made in terms of a rigorous definition, appreciation and implementation of the concept. Not surprisingly, therefore, efforts to 'operationalize' sustainable development and to show how it can be integrated into practical decision-making have been few and generally unpersuasive. pearce, Barbier &. Markandya (1990) The concept of sustainable development which has now become ingrained in almost every shade of human existence, means the ability to maintain

an optimal level of development given known or predictable factor constraint, into an indefinite future. It is said to have a futuristic element and dimension .

The emphasis on sustainable development suggests a much more concern for the future and for the inhabitants of the future than has characterized past models of development process. It may not be too unfair to suggest that previous models of the development process have tended to assume that the 'future will look after itself, whereas the sustainable development approach acknowledges that the ability of the future to do this can be seriously impaired by actions taken now. Sustainable development no doubt needs a policy framework and collective effort on the parts of all Stakeholder.(Boyle:1999).

The roots of the concept of sustainable development go back to the early 1970s when the UN General Assembly in its Resolution 2626 (xxv) proclaimed the second UN Development Decade and the Founex Report on development and Environment of 1971 pointed to the linkage of long term development goals and environmental protection. In 1972, the UN Stockholm Declaration on the Human Environment particularly in its principle 9,10,11, first emphasized that environmental protection, and economic development must be understood as compatible and mutually reinforcing goals.

The world conservation strategy, developed jointly by the international union for conservation of nature (IUCN), the United Nations Environment Programme (UNEP) and the World Wild Fund for Nature (WWF) in1980, as well as the UN world chapter Nature of 1982 transformed the still very abstract concepts of the Stockholm declarations sustainable development into more specified programmes of actions. December 1987, the UN General Assembly in its Resolution 42\187 endorsed ire Brundtland Report and concurred with the commission:

That critical objectives to environment and development policies which follow from the need for sustainable development must include preserving peace, reviving growth and changing its quality, remedying the problems of poverty and satisfying of human needs, addressing the problems of population growth and of conserving and enhancing the resources base, reorienting technology and managing risk and merging environment and economics in decision -making.

Put together, all these documents already contain the key element of the concept of sustainable development as it was later employed in the in the 1992 United Nations Conference on Environment and Development in Rio de Janeiro (Agenda 21) which proposed the establishment of the commission for sustainable development(CSD). The CSD was to develop into a high level policy information and discussion centre for environmental protection and development. Ulrich Beyerlin (1996).

LEGAL FRAMEWORK FOR ENVIRONMENTAL CONSERVATION

The development of an appropriate legal system is an important building block in this context. The government must ensure that the legislation brings different political and legal interest into harmony with environmental conservation requirements. Standards and laws of high qualities are to be based on recognized standards of law- making and enforcement. There is need to establish fundamental procedures within the Nigeria legal system to encourage the elaboration of standards, improve their quality and thus make them more enforceable. New instruments and methods to improve the quality of the legislation and increase judicial efficiency and consistency should be made available and implemented and should undergo constant review. New procedure

for legal consolidation should developed to eliminate duplications, contradictions and gaps in the legislation. (Lkhagva zaya;2013).

Environmental conservation legislation presents itself as a salient tool of social ordering. It is expected to reverse specific human attitudes, activities or beliefs which are environmentally unfriendly in order to secure a safe and healthy environment for present generations and generations yet unborn, okorodudu-fubara (1997).

However, there seems to be two schools of thought as to whether law is an effective tool in conserving the environment. For Joseph L. Sax (1977), law is an effective tool for the conservation of the environment. He asserted that:

Laws set and enforce scientific standards for human health and enjoyment by regulating the use of air, water, and land. The law also has broader responsibilities that require it to make complex policy judgments. For example, it must decide how stringently to control strip mining that pollutes streams, in the light of the demand for coal as a fuel. And if coal production is limited, the effect of that decision on the production of other fuels that a/so affect the environment, such as oil or nuclear power, must be considered. The law must a/so balance the imposition of environmental control against other important social values, such as potential unemployment. It draws upon economics, biology, and other disciplines to make wise policy decisions. To a large extent it is preventive law for it attempts to prove an uncertain future to prevent irrevocable mistakes.

Atsegbua (2002), on the other hand posited that, "No laws can save nature and the environment. It is only man himself that can do it. We, therefore, have to charge ourselves to protect the environment and nature. Indeed, it must be clear to all that legislation and environmental protection in the form of global, regional or domestic instruments are not an end in themselves and cannot save the environment. Legislations are important and necessary. So also are other forms of control advocated by some jurist."Atsegbua (2000)

Although a serious quest to protect the environment is comparatively a new and novel area in the world and Nigeria in particular, it does not stand to say that no law ever existed in Nigeria as touching on the environment. The truth is that, before 1988, Nigeria had no properly defined and articulated policy on the environment. There existed transient laws and regulations, which lacked coordination of coherence in a concerted focus at improving the decaying environment .Okonkwo (1998) These laws simply put, indirectly touch on environmental conservation as they are not specifically meant as legislation on conservation itself. The concern of the government was on how best to achieve social and economic development than the need to conserve the environment. The main Environmental Conservation legislations are;

THE SEA FISHERIES ACT

This is an Act to provide for the control, regulation and protection of sea fisheries in the territorial Waters of Nigeria. Section 1(1) of this act provides that no person shall operate or navigate any motor fishing boat for the purpose of fishing or a reefer vessels for the purpose of discharging frozen fish within the territorial waters of Nigeria, or its exclusive economic zone, unless that boat or reefer vessel has been registered and licensed. Contravention of this subsection attracts five years imprisonment or to a fine of N250,000 or to both such fine and imprisonment, and in addition, forfeiture of the motor fishing boat and the fish or shrimp caught

on board. Pollution of the sea and health protection is accorded protection under section 10 of the Act which provides as follows:-

No person shall take or destroy or attempt to take or destroy any fish within the territorial waters of Nigeria or its exclusive economic zone by any of the following methods, that is:-(a) by the use of any explosive substance; or

(b) by the use of any noxious or poisonous matter.

By sub-section (2) any person, who contravenes the provisions of sub-section (1) of this section shall be guilty of an offence and liable on conviction to imprisonment for two years or a fine of N50,000.00. The minister is charged with the responsibilities of making regulations for furthering the interests of sea fishing industry in Nigeria and for giving effect to the provisions of the Act. Paragraph 11 of the sea fisheries Act: (Fishing/Regulations 1992) makes it an offence to catch, land, retain, sell, expose or offer for sale or be in possession for the purpose of sale of sea fish of any prescription in relation to sea fish of that description. The minimum size in relation to sea fish for a lobster shall be 7cm in length, for a crab 6cm in length, measured from the hip of the beak to the end of the flap of the tail, when spread as far as possible flat.

The Nigerian Institute for Oceanography and Marine Research publishes every year the minimum total length of fish catchable during the year for each of the commercial species taking into consideration:

(a) the 5 percent retention length of the legal cod-end mesh;

(b) The fish demand and supply situation; and

(c) Health of fish resources.

It is an offence to catch, or retain for ultimate sale, fish less than the minimum total length published in respect of each species.

In spite of the above regulations, a visit to our markets shows that different sizes and types of fishes are there for willing buyers, with nothing being done to curb the menace. There is obvious absence of rigid enforcement of the provisions of the Act. Thus a clarion call is hereby made to the officials responsible for the enforcement of these laws to wake up and salvage the fish stocks of our country.

THE NATIONAL PARK SERVICE ACT, 1999 (WITH AMENDMENT IN 2006)

This is an act that established the National Park service to be responsible for the preservation, enhancement and protection of wild animals and plants and other vegetation in National Parks; and for matters connected therewith. The functions of the service include among others to>

(a) Preserve, enhance, protect, and manage vegetation and wild animals in the National parks;

(b) Advise the Federal Government on the development and preservation policy of the National parks, including the financial requirements for the implementation of such policy;

(c) Advise the Federal Government on the declaration of areas which for the purpose of protecting wild life species biotic communities, sites of special interest or of aesthetic value the service considers may be declared as National parks.

(d) Prepare surveys and maintain up-to-date records of all the existing facilities for the growth and protection of the Fauna and Flora in the national Parks for zoological or botanical species, and for wild or domesticated animals and advise the Federal Government and state governments on their adequacy and efficient utilization in the interest of the national economy;

(e) Promote, develop and carry out research on the wild life resources of Nigeria, with a view to promoting optimum utilization and management of the wild life.

(f) Encourage - general education in the knowledge of wild and domestic animals,

Fauna and flora and vegetation by publishing or sponsoring the publication of the results of research, particularly in relation to problems affecting Nigeria; and

(g) Co-operate with other agencies to promote and develop alternatives to wild life as a source of protein and income for the rural population.

Section 22 which provides for the function of the management committees ensures that the National Park is set aside exclusively for the propagation, protection and management of the vegetation and wild animals; to also prohibit hunting, destruction or collection of animals and plants, and any undertaking as forestry, agricultural grazing, mining, excavation or prospecting, or any work which could alter the configuration of the soil or the character of the vegetation or water pollution; or any act likely to harm or disturb the fauna and flora, including the introduction of zoological or botanical species, whether indigenous or imported, wild or domesticated.

Restriction is also place on hunting, capturing, destroying, collecting, uprooting, burning, striping off the bark or leaves from or otherwise damage a tree or plant and introducing a chemical or otherwise cause any form of pollution among others, any person who contravenes the above provisions is guilty of an offence under the Act. The beautiful character of this act is seen in section 44 (1) (2) which provides as follows:

(1) If a person has good and sufficient reason to believe that a proposed or existing process or activity of government or any other organization or person may have an adverse effect on a wild life species or community, that person may request the service to ensure that an environmental impact assessment is undertaken by the Federal Environmental Protection Agency.

(2) The provision of the Environmental Impact Assessment Act shall apply to an environmental impact assessment undertaken under sub-section (1) of this section.

It is however important to note that the Federal Environmental protection Agency Act has now been repealed by the National Environmental standard and Regulation Enforcement Agency (Establishment) Act of 30th July, 2007. It naturally follows that the duty to ensure an environmental impact assessment should now be performed by the new Agency that is in place. This innovation is novel and encouraging when compared to other laws that are in place to conserve the environment, it shows a sincere disposition to actually protect the life of animals and plants in the National parks. It is recommended that the same provision be extended to other similar laws for the proper protection of the environment. By virtue of section 50 of the act, the following are the Nation's National Park:

- (a) the Chad Basin National park;
- (b) the Cross River National park;
- (c) the Gashaka-Gumti National park;
- (d) the Kainji lake National park;
- (e) the old Oyo National park;
- (f) Yankari National park, which came into existence by virtue of the subsidiary legislation with its commencement date as 22nd August, 1991.

The last two National Parks; were included with the promulgation of the (National Park service [Amendment) Act, of 2006]

Laudable as the provisions of this act seems, it is sad to observe that no penalty was provided against a person who contravenes the provisions of section 30 of the Act, which restrict hunting among others in the National park. The section simply states that an offender is guilty of an offence under the Act and nothing more. Astonishingly, penalties were provided for sections 29, 31, 32, 33, 34 and 35 which deals on Restriction on entry into National park, Restriction on

weapons in the National park, prohibition of introduction of wild animals into National park, prohibition of domestic animals in National Park; prohibition of introduction of plants into National park and Restriction on prospecting for genetic materials in National park respectively. It is suggested that this great lacuna be corrected, as the penalties accorded the above mentioned sections by section 37 of the act will amount to "window dressing" where no adequate protection is given to the plants and wild life community that habits the National park, for there will be no need for restriction and prohibition of whatever when there are no plants and animals that would necessitate such, for we cannot build something on nothing and expect it to stand.

THE ENDANGERED SPECIES (CONTROL OF INTERNATIONAL TRADE AND TRAFFIC) ACT

This is an act that provides for the conservation and management of Nigeria's wild life and the protection of some of her endangered species in danger of extinction as a result of over-exploitation, as required under certain international treaties to which Nigeria is a signatory. Under section (1) the hunting or capture of or trade in, the animals species specified in the first schedule to this act (being animal species threatened with extinction) is absolutely prohibited. No person shall hunt, capture, trade in or otherwise deal with an animal species specified in the second schedule to this Act (being animals which, though not necessarily now threatened with extinction, may become so threatened unless trade in respect of such species is controlled) except where he is in possession of license issued under this Act. Section 2, regulates the exploration and importation of species specified in the second schedule; section 4 gives the Minister the power and by order publish in the Federal Gazette, to alter the list of animals specified in the first or second schedule to this Act by way of addition, substitution or deletion or otherwise. However, different provisions are made in relation to different species in respects of importation, exportation or re-exportations of animals and plant from Nigeria and impose such conditions as he may deem necessary. Although section 5(5) allows the killing, capture or fishing of any specimen specified under the first and second schedules to this act for reasons of paramount public interest; defense of human life; protection of public health; defense of property and defense of the lives of other animals, sub-section (6) prohibits the use of the following method:-

- (a) any method liable to cause mass destruction of wild animals;
- (b) the use of drugs, poisons, poisoned weapons or poisoned baits
- (c) the use of mechanically propelled vehicles for hunting;
- (d) the use of fire;
- (e) the use of firearms capable of firing more than one round at each pull of the trigger;
- (f) hunting or capture at night; or
- (g) the use of missiles containing detonators.

The implementation and enforcement of the provisions of this act, will go a long way in protecting the endangered species, however the fines of N1.000 and N500 provided under section 5 (1) and (2) of the act in contravention of provisions of the act for specimen specified in the first and second Schedules are long overdue for amendment, the fine should be punitive enough to deter persons from committing the said offences. The penalty is not commensurate to the crime committed and this explains why a lot of trading and trafficking in these animals still go unabated.

THE NATIONAL OIL SPILLAGE DETECTION AND RESPONSE AGENCY (NOSDRA)

The National Oil Spill Detection Response Agency (NOSDRA) was established in 2006 to tackle persistent environmental degradation and devastation of the coastal ecosystem arising from incessant oil spill especially, in the oil producing areas of the Niger-Delta region. The Agency is mandated to play the lead role in ensuring timely, effective and appropriate response to all oil spills as well as protect threatened environment and ensure clean up of all impact sites to the best practical extent.

The structure of the Agency provides for zonal offices in the oil producing areas of the Niger-Delta region. The Agency is to receive and review oil spill reports, inspect and remedy past impacted sites. According to the Minister of Environment, between January and June 2009, the Agency received and reviewed oil spill reports of eight oil industry operators, inspected more than 425 past impacted sites out of which about 270 have been certified as having been restored to their natural state. The agency in collaboration with oil companies has set out an action plan for the decommissioning of their abandoned well-heads and other oil facilities, with the intention of rehabilitation of burrow pits with a view to converting them into fish ponds and other economically viable projects. Also, it is said to have completed the environmental sensitivity index (ES) maps of Nigeria Coastal lines from Badagry to Calabar, stretching 50km inland for the purpose of guiding and ensuring appropriate response mechanism required for different environmentally sensitive areas in the event of oil spills. Because oil spill management requires acquisition of satellite based data. The Agency has established a Geographic Information system (GIS) Command and control center to facilitate prompt detection and effective monitoring of oil spill incidence as well as solving management problems. This agency, however, seems to exist on paper as not much is known about the activities of the Agency. According to an official of the Agency, "we have so many problems from finance to provision of vehicles, boats among others. We cannot even assess the main areas where oil spill occur, because we lack competent personnel and equipment to carry out the job" To this end, the setting up of the Agency is a welcome development, however, the agency needs to be enabled and provided with all that is necessary for it proper and effective functioning. It should be properly staffed and financed and well equipped to carry out its functions.

THE NATIONAL ENVIRONMENTAL STANDARDS AND REGULATIONS ENFORCEMENT AGENCY (ESTABLISHMENT) ACT. (NESREA)

This is an Act that provides for the Establishment of the National Environmental Standards and Regulations Enforcement Agency charged with responsibilities for the protection and development of the environment in Nigeria; and for related matters. This Act, now repeals the popular Federal Environmental protection Agency Act (FEPA).

Some of the functions of the Act include to:

- (a) Enforce compliance with the provisions of international agreements, protocols, conventions and treaties on the environment, including climate change, biodiversity, conservation, desertification, forestry, oil and gas, chemicals, hazardous wastes, ozone depletion, marine and wild life, pollution, sanitation and such other environmental agreements as may from time to time come into force;
- (b) Enforce compliance with guidelines and legislation on sustainable management of the ecosystem, biodiversity conservation and the development of Nigeria's natural resources;

(c) Enforce through compliance monitoring the environmental regulations and standards on noise, air, land, seas, oceans and other water bodies other than in the oil and gas sector;

(d) Conduct environmental audit and establish data bank on regulatory and enforcement mechanisms of environmental standards other than in the oil and gas sector;

(e) Create public awareness and provide environmental education on sustainable environmental management, promote private sector compliance with environmental regulations other than in the oil and gas sector and public general scientific or other data resulting from the performance of its functions;

By the provision of section 8, the Agency among other has the following powers;

(a) Prohibit processes and use of equipment or technology that undermine environmental quality;

(b) Conduct public investigations on pollution and the degradation of natural resources, except investigation and oil spillage;

(c) Submit for the approval of the minister, proposals for the evolution and review of existing guidelines, regulations and standards on environment other than in the oil and gas sector, including - atmospheric protection, air quality, ozone depleting substance, noise control, effluent, limitations, water quality, waste management and environmental sanitation, erosion and flood control, coastal zone management, dams and reservoirs, watershed, deforestation and bush burning, other forms of pollution and sanitation, and control of hazardous substances and removal control methods.

(d) In collaboration with other relevant agencies and with the approval of the minister, establish programmes for setting standards and regulations for the prevention, reduction and elimination of pollution and other forms of environmental degradation in the nation's air, land, oceans, seas and other water bodies and for restoration and enhancement of the nation's environment and natural resources; Although the provisions of the act establishing the Agency is laudable, all-embracing, progressive and depicts a nation that is in serious and honest in all forms to protect its environment, the Act however, is not without some obvious flaws.

THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA

The Constitution is the system of laws and basic principles that governs a country. It spells out the responsibilities of the various organs of government as well as the relationship between the citizens. For Nwabueze,(1982) "a constitution is a body of fundamental principles according to which a state is governed. It is therefore a declaration of how certain goals are to be achieved in any society".

The constitution of the Federal Republic of Nigeria, 1999 provides under the second schedule part I and II, for the legislative powers of the various level of government in Nigeria. Part I of the said schedule, provides for the Exclusive legislative list while part II provides for the concurrent legislative list.

Looking at the provisions of the constitution, it is quite clear that no legal mandate places the responsibility of environmental protection on the shoulders of the Federal Government in particular and the state and local Government in general. A mockery of a legal framework for the conservation of the environment is seen under section 20 of the Constitution and it provides thus: The state shall protect and improve the environment and safeguard the water, air and land, forest and wild life of Nigeria.

On the face of this provision, one is tempted to believe that the environmental conservation right is provided for in the Constitution of the Federal republic of Nigeria, and that since the Constitution is "a body of fundamental principles according to which a state is governed", the rights so provided for in such an instrument are inalienable and deserves to be protected. Regrettably this is not the intention of the draftsman of the Constitution for the fact that the chapter under which the said section appeared is an integral part of the Fundamental objectives and Directive Principles of state policy, which are not law so called, as they are not justiciable, with the effect that non observance of these provisions cannot be challenged in any court of law in Nigeria. This was the position of the court in *Morebishi v Lagos State House of Assembly*(2000), where it was held that the provisions of chapter 2 of the constitution which contains the fundamental objectives and directive principles of state policy is not justiciable, although they remain pillars of guide and focus of attention of all tiers of Government. Also, the court of Appeal in *Okogie v Attorney General of Lagos State*(1980), properly stated the position of the provisions of chapter 2 of the Constitution of the Federal republic of Nigeria, when it held that the Educational objectives under section 18 of the then 1979 constitution which is in all forms with the provision under chapter two of the 1999 constitution are directives to the government and not to private citizens.

Of what value is a provision that is not backed by law? thus, the question whether the constitution of the Federal republic of Nigeria has provided for the protection of the environment, is to be answered in the negative, as the purported provision seeks to expose and mock the insincerity in our pretentious quest to protect the environment. Be that as it may, there is now the need for express inclusion of environmental protection under chapter four of the constitution as a fundamental right, the time to act is now, since there is presently attempts to have the constitution amended. However, the protection of the environment should not be restricted to a specific guarantee, hence (Steiger;1980) opined, that different legal techniques for the protection of the environment should be adopted. He suggested the following techniques among others:

- (a) Specific environmental guarantee in the constitution
- (b) By combination of such guarantee with other Fundamental rights.
- (c) By using other fundamental rights directly to secure protection of the environments
- (d) By connecting state policy guidelines. The protection of the individual's right clean environment.

THE NEED FOR A LEGAL FRAMEWORK FOR SUSTAINABLE DEVELOPMENT

The need for a legal framework for sustainable development in Nigeria is that it will enunciate Nigeria national vision for sustainable development and indicate strategic interventions to re-orientate Nigeria's development path in a more sustainable direction. It may not present detailed strategies or actions, but rather proposes a national vision principles, trends, strategic priority areas and a set of implementation measures that will enable and guide the development of the national strategy and action plans.

The framework will describe in broad terms how the existing activities of governmental and its social partners will be strengthened, refined and realigned in a phased manner to achieve interrelated sustainable development goals relating to the economy, society and environment, and how governance systems will be cap cited to facilitate the process.

It provides the basis for a long-term process of integrating sustainability as a key components of the development discourse and show Nigeria's commitment to the principles developed at international summits and conference in the economic, social and environment field, including the 2002 world summit on sustainable development.

The framework will be useful to all social partners and all organs of state, within the national, state and the local spheres to progressively refine and realign their policies and decision making systems in order to establish coherent and mutually consistent national system aimed at promoting sustained development. This process will be facilitated by the development of a coherent set of sustainable development indicators making investments in capacity building research and development and information technology; and by the development of a national sustainable development strategy which identifies arid priorities specific government interventions.

BENEFITS OF ENVIRONMENTAL CONSERVATION

It is public secret that the environment is deteriorating at a very fast rate. If nothing is done to conserve the environment, we might found ourselves in a big mess that we may not be able to solve. Conservation is important to human survival. The earlier we see the benefits and start working on them, the better for the present and future generation. Some of the benefits of environmental conservation are

- Recreational value: The use of wild lands and animals resources for recreational enjoyment is one of the importance of conservation, recreational activities like fishing, hunting, boating, swimming, picnicking among others are possible because of the continued existence of natural or near- natural environments.
- Scientific Value: natural resources are needed to conduct studies, acquire knowledge, discover scientific and technological values.
- Economic benefits: this has to do with long and short terms interest of the community for maximum profit at minimum cost. Okorodudu-Fubara(1989)
- Reduces health hazards: a polluted environment has many health hazards. If we conserve the environment, we will be able to enjoy long and healthy lives, since the health hazards will be absent.
- Less waste: with recycling of the recyclable waste, the environment will be cleaner and the money that would have been spent on buying new items can be redirected to other use.
- Less toxicity: with less toxicity in the surrounding, we will breath cleaner air and take food that is more useful to our body, as a result we will live a healthier and happier. Real Tree(2013).

CHALLENGES OF ENVIRONMENTAL CONSERVATION

- * Uneven developmental processes
- * Environmental pollution and degradation
- * Desertification
- * Climate change
- * Population growth
- * Poverty
- * Increase demand for natural resources
- * Energy supply. Indian Express(2012)

CONCLUSION

Environmental conservation concerns us all, biological resources are vital to all of us. Unfortunately, where political and economic system fail to provide people with land, jobs and food, disenfranchised citizens turn to legally protected lands, plants and animals for their needs. Immediate human survival always takes precedence over long term environmental goals. Cunningham (2008:146)

People in some developing countries like Nigeria, are beginning to realize that the biological richness of their environment may be their most valuable resource and that its preservation is vital for sustainable development.

As the developing countries of the world becomes more affluent, they are adopting many of the wasteful and destructive live style patterns of the richer countries. We would all benefits by helping developing countries access more efficient less- polluting countries access more efficient less polluting technologies, education, democracy, and access to information are essential for sustainability. Cunningham (2008:373).

Conservation programmes have been greatly hindered in Nigeria, compounding the problem is the simple fact that the society have a need for monetary income and they see little or no direct economic return to them as a result of the conservation. The Nigerian government remains preoccupied with economic problems such as that they are unable to allocate enough resources - for conservation, for research' and monitoring of conservation programmes. (Lowe: 1999).

For any meaningful environmental conservation programme to be effectively carried out there must be a conscious effort in involving the local people in maintaining and managing their environment since the need of these dwellers must be respected Nathaniel and Nathaniel (2005). To successfully implement the framework for sustainable development and achieve sustainable development objectives and targets, the nation as a whole must increasingly share in the common vision. All sectors, including all elements of the state plus civil society, organized labour and business need to take part in the social contract to implement environmental conservation strategy.

There is need to promote simple actions on a large scale. As understanding of sustainable development increases, and it becomes clear that this is the key mechanism for building capacity and governance to achieve human development based on sustainable production and consumption systems, government and society across will address the issues identified in this strategy with the seriousness they deserve. (South Africa: 2013)

In deciding on resource allocation and in making policy choices the Executive should seek to give effect to the vision of sustainability, priorities and commitments should be clearly articulated. While sustainability concerns do impact on all facts of life we should keep our focus on environmental conservation for strategic intervention and the importance of mainstreaming it into the Accelerated and Shared Growth Initiatives (ASGISA) This Priority areas should over the coming years, serve, as catalysts for policy changes that will facilitate the achievement of the desired ideal state as articulated in the nation vision for sustainable development.

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