

NIGERIA WITHOUT OIL: A CALL FOR PARADIGM SHIFT TO FOREST LAWS AS A TOOL FOR HARNESSING FOREST RESOURCES IN NIGERIA

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ABSTRACT

The threat of global warming and climate change has made it much more imperative than ever to dispense with energy generated from hydrocarbons and replace same with alternative sources of energy. Presently, crude oil still accounts for Nigeria's main source of revenue as the oil sector provides for 95% of its foreign exchange earnings and 80% of its budgetary revenues. The implication of this is that when the world has changed from the use of crude oil to alternative energy sources Nigeria will lose 95% of its foreign exchange earnings. This makes it a categorical imperative for Nigeria to begin to look beyond crude oil as its main revenue source. Apart from crude oil, Nigeria is endowed with many other natural resources; amongst these is its forest resource. It is the position of this paper that if the forest resources of Nigeria are well harnessed and conserved them will constitute a major source of Nigeria revenue. The paper identified absence of forest resources legislation at the National level and at the state levels, where legislation exist; they are weak and need to be strengthened. This paper recommends that an Act be enacted at the national level to protect forest resources and same should to review and incorporate the existing state forestry laws in order to harness Nigeria forest resources for economic growth. The paper also recommends serious education of the masses and aggressive awareness campaign on the devastating effects of deforestation and bush burning in Nigeria.

Keywords: Nigeria, Forest Resources, Crude Oil, Alternative Energy, Forestry Law.

INTRODUCTION

Currently Nigeria depends on crude oil as the major source of its foreign exchange earnings, even though in the past, when crude oil had not been discovered, Nigeria survived on agricultural products. Nigeria was a major exporter of cocoa, groundnut, cotton, palm oil etc. The discovery of crude oil reduced all these products of economic value to inconsequential.

Unfortunately the world is now looking beyond crude oil. The world is now striving seriously to secure alternative sources of energy. The moment that is achieved crude oil will become history. With the effects of global warming biting harder the search for alternative energy sources is being intensified worldwide. There is no doubt therefore that the prediction that crude oil will soon be a thing of the past will soon come to past. This makes it imperative to shift our attention to our forest resources. Our forests have suffered a lot of devastation. So also are the forest resources. Between independence in 1960 and now, Nigeria has witnessed an increasing deforestation of her hitherto very rich forest regions. Deforestation reached its zenith during the era usually referred to as the "oil boom" era. This was in the 1970s and 1980s. During

this period, the oil boom brought huge foreign earnings leading to massive physical development in Nigeria. New towns and cities like New Bussan in Kwara State to house those displaced by the hydro-dam in Kanji and its environs, Abuja, our new Federal Capital, Lekki Peninsular Town, Ajoda, Agbara, etc. emerged from virgin forests and lands.

The development did not end with new towns and cities; new roads, particularly dual carriage roads that now crisscross the entire nation, were all constructed with a view to opening up the Country. Some wealthy Nigerians and their retired army generals, particularly in the North, took to large scale farming involving the bulldozing and clearing of several kilometers of forest land (Osei-Tutu, 2017).

There is also the problem of bush burning (usually for farming and gaming related) practices that has caused massive deforestation in the country. But in our humble view, the greatest destruction of our forest regions in the last two or three decades has been the exploration and exploitation activities of the multinational oil companies operating in Nigeria. The massive destruction of forests resources in the search for oil has continued unabated in spite of the existence of various laws and regulations put in place by government at various times to control the activities of these companies to prevent or, at least, reduce deforestation and destruction of our natural vegetation (Asokan et al., 2015).

The result of all these developments and activities was that the forests were ravaged to the extent that, *“vegetation untouched by human activity probably no longer exists in the country”*.

This paper focuses on forestry laws. Nigeria had never lacked laws regulating forests, forests management, and forest resources. The legal protection of the forest estate in Nigeria dates back to 1901 with the promulgation of the first Forestry Ordinance. There was the Forestry Ordinance (Barnhardt & Kawagley, 2005). Thereafter came the Forestry Act, 1985 now repealed; the question is where these laws adequate protection for the forests and forest resources? Why was the Forestry Act of 1985 repealed without a replacement? Suffice to say at this stage that these were the laws that applied to forests generally in the entire country.

After the repeal of the Forestry Act of 1985 came some laws that are not directly targeted at forests but do have provisions touching on forests related matters. Prominent in this class are the Land Use Act, Minerals Act now Minerals and Mining Act, the National

Environmental Standards and Regulations Enforcement Agency Act, the National Park Service Act, the Environmental Impact Assessment Act, the Petroleum Act and the Petroleum (Drilling and Production) Regulation. Also relevant to our discussion is the Federal Government’s National Policy on the Environment (Cardelus et al., 2013).

At the States’ level we have the various Forestry Laws. Regrettably, the content of these laws are largely relics of the colonial period. For instance, as observed by Okorodudu-Fubara, even though the Forestry Law, 1978 of Oyo State was enacted well after the colonial period, the law remained a rehash of the Forestry Act of 1958! Same for all the forestry laws of other states; they are like the Chinese to Africans: once you see one, you have seen all! It is for this reason that we shall examine only two: Forestry Law of Bendel State (applicable to Delta State) and Forestry Law of Oyo State (Chemhuru & Masaka, 2010).

This paper is divided into three parts: part 1 deals with definition of words; causes of deforestation, how deforestation had affected the environment. The impact, if any, of forestry law on the environment is discussed in part 2 while in part 3 we looked at the adequacy or

otherwise of the forestry laws in Nigeria after which we concluded by way of suggesting the ways to use forestry laws to protect and harness forest resources in Nigeria.

Definition of Words

Afforestation: The Black's Law Dictionary defines the word afforestation to mean the act of converting land into a forest, especially by subjecting it to forestry laws. In other words, we could refer to these as manmade forests. Good examples abound in the Northern parts of Nigeria where one could see several kilometres of trees planted in plantations in the colonial days.

Conservation: Again, Black's Law Dictionary defines this to mean the supervision, management and maintenance of natural resources; the protection, improvement, and use of natural resources in a way that ensures the highest social as well as economic benefits. The most widely accepted definition was given in 1980 by the International Union for Conservation of Nature and Natural Resources to mean *"the management of human use of the biosphere so that it may yield the greatest sustainable benefit while maintaining its potential to meet the needs and aspirations of future generations."*

This definition would make meaning only when we understand the word *"biosphere"* used in the definition. Biosphere means the *"relatively narrow zone of air, water soil, and rock in which all life on Earth exists."*

It is to achieve the objectives mentioned in the definition of conservation above that the Nigerian Conservation Foundation exists in Nigeria. It is a non-government agency that *"has been raising money to promote better and widespread understanding of the concerns and relevance of conservation."*

Deforestation: The prefix *"de"* when used before a word usually connotes opposite or negative of the word. Thus, defrost, deform, derail, etc. Deforest therefore would mean to remove the trees, woods, etc. that make up a forest and make it bare. In other words, a forest made or turned into bare land (Etemire & Sobere, 2020).

Forest: The Oxford Advanced Learner's Dictionary defines this to mean *"a large area of land thickly covered with trees, bushes, etc."* It is our submission that *"large area"* as used must be relative. A forest could exist on a plot of land if it is thickly populated by trees, bushes, creepers, and other living plants, animals and other organisms.

Reforestation: The definition is very apt for our purpose: *"Refoprestation is reverse of deforestation; moving in the opposite direction from the adverse effects of deforestation and restoring the vegetation cover and forested outlook of the nation's forest estate."*

Causes of Deforestation in Nigeria

Deforestation has been identified as one of the most serious environmental problems facing Nigeria. In order to properly appreciate the magnitude of these problems, we would begin with some vital statistics relating to the total land mass of the country. The total land area of Nigeria is about 91.1 million hectares. 34 per cent of this is used for farming. 23% is used for permanent pasture (this is mainly in the middle belt region including the Plateau areas of central Nigeria). 16% is forests and woodlands. While 26% is for other uses (Ezenagu, 2020).

What this simple statistics translate to is that over 75% of our land mass has been devastated by human activities! This would include the 34% for farming, the 23 percent for

pasturing and 26 percent for other uses. This again is a confirmation of our earlier submission that there is probably no vegetation untouched by human activities in Nigeria today.

The major causes of this deforestation have been summarized as “*population growth and the expansion of economic activities: logging or timber exploitation, farming, urbanization, bush burning, firewood collection, grazing and infrastructural development.*”

We agree in toto with the above enumerated causes and would add the following: poverty, ignorance of the existence of the various forestry laws and regulations, custom/tradition, and the lack of the will to implement the provisions of the laws and/or government policies regulating forests and forest produces.

We want to assert that in recent years, particularly in the last two decades, oil exploration and exploitation, have contributed significantly to the deforestation problems in Nigeria in spite of the various laws put in place to regulate the activities of the oil companies. The operations of the various seismic companies that usually invade the forests, clearing and uprooting trees and bushes ahead of the arrival of the oil exploration experts require greater supervision. In most cases, these companies enter the forests without compliance with the requirements of the Environmental Impact Assessment Act. Yet, environmental impact assessment is the process by which humans in their search for a rational system or method, procedural or substantive, attempt to inquire, evaluate and address the critical environmental consequences of a proposed activity in relation to the effect of action or inaction. And while the Act is not directly a forestry law, it is targeted at operations and activities that have direct impact on the environment. Section 4 in particular, requires that all projects that are likely to have a major impact on the environment should be commenced only subject to the approval of the relevant government agency after seeing the environmental impact assessment report (Freedman, 2018). A religious implementation of this Act would to a great extent prevent deforestation and other environmental problems.

Effects of Deforestation on the Environment

Deforestation as we have earlier defined in this presentation means in simple language, removing vegetation cover from the land. It means laying the forest bare. The consequences of this to the environment are great. But in a nutshell, we can summarize these consequences as flooding, gully erosion, soil loss, destruction of biodiversity and various forms of pollution.

Nigeria's forest has traditionally provided three important economic products: timber export, traditional hunting, and wood fuel. Timber products alone is said to still account for about 7% of the agricultural products of the country. While about 90%, of all woods consumption is estimated to be from wood fuel (Jariwala, 1993). The implication of this on the environment is that except urgent steps are taken to replace every tree that is felled with at least 5 tree seedlings Nigeria may soon lose all her forests for these products.

Indiscriminate bush burning still remains the most devastating environmental problem. The act easily reduces the vegetation cover of the soil thereby reducing its ability to resist erosion. The soil so exposed is equally easily washed away and the limited organic contents are lost thereby reducing its ability to support plant growth.

A Look at the Forestry Laws

The first law we would look at is the Forestry Ordinance not because this law still applies to forests and forest related matters today but because subsequent laws on forestry, both at federal and states levels have virtually followed the same pattern with little and sometimes unimportant additions.

Under this Ordinance, forests are classified either as government reserves, government protected forests, or as communal forest areas. It defines forest produce to include timber, firewood, fibres, bark, trees, plants, climbers, creepers, grasses, etc. Indeed, it defines timber to include all trees whether standing, fallen or felled, stumps of trees and all woods. It is our submission that the Ordinance was very comprehensive covering all areas of forest and forest produce.

This law had provisions:

1. Prohibiting or regulating forest produce of all kind;
2. Prohibiting the sale and the purchase of forest produce of any kind;
3. Prohibiting the possession/collection of forest produce of any kind;
4. Doing anything that may cause injury to any forest produce or forest growth or forest property;
5. Establishment and maintenance of nurseries and afforestation of lands;
6. Regulating the kindling of fires for any purpose within a protected forest or a reserved forest, and prescribing the persons who may allocate the period during which fire may be or may not be allowed for any purpose.

All through the colonial era when this ordinance was the applicable law, the management of forests was simply superb. The reason was not too farfetched: the economy depended on timber and other forest produce for foreign earnings. The implementation of the forestry laws at that period was strictly done. Deforestation was at its barest minimum because exploitation of the forests was properly controlled. Then, it was an offence for anybody without a license to take any forest produce, uproot any tree or plant, set fire on any grass or kindle fire in any part of a protected or reserved forests, or even hunt or fish in such places! It was an offence to pasture cattle or permit cattle to trespass. And what is more, severe penalties were imposed by the Ordinance for breaches. One Hundred pounds or imprisonment ranging from two years to six months were variously prescribed by the Ordinance. A fine of one Hundred Pounds in 1958 is indeed a huge sum of money (Negi, 2005). It was therefore no surprise that it deterred breaches compared with recent laws, like the Forestry Law of Oyo State that prescribes ten thousand Naira fines, and the forestry law of Delta State which prescribes fines of five thousand naira and ten thousand naira.

Due to the law in force at that time deforestation was at its lowest ebb during the period. Indeed the law adequately controlled deforestation and the environment was better for it.

The next major law at the federal level was the 1985 Forestry act which incidentally was repealed in the index to the 1990 Laws of Federation of Nigeria. The position therefore is that as at today, there is no Act directly regulating forestry in Nigeria. And this is very sad indeed. While smaller countries like Tanzania are taking the bull by the horn by enacting laws to regulate forestry at federal levels our Country is leaving it to the States.

And what are the States doing? With the emergence of Land Use Act that now vest ownership of land on the governor of a state, the governors are now more concerned with physical developments of their areas. According to Prof Ajomo and Mrs. Adewale, Many state

governments deserve their forests. In Bendel State (now Edo and Delta States) 3,350 hectare acres were deserved in Utomo, Obaterimi and Ologbo Forest reserve for agricultural purposes and 410 hectare acres of Ogba Forest was deserved for an airport project (that has not seen the light of day after over 20 years now) in Kaduna State about 7,420 hectare acres of forest reserves have been claimed by the Nigerian Deference Academy and the Mobile Police Training School. In Kwara State (Kogi State) 18,390 hectare of Ajaokuta forest reserve was taken over by Ajaokuta Steel Development Company (Reardon & Timmer, 2012). The socio-economic implications of deforestation are quite alarming. These include loss in biodiversity and generic resources, shortage of fire wood and industrial timber, destruction of wild life habitats, floods and erosion.

We agree completely with the conclusions of these learned authors in the portion underlined above. The uncoordinated activities of the States Governments is another reason why we have advocated that forestry is very important to a nation and ought to be coordinated at federal level.

We must however recognize the existence of the Federal Government's National Policy on Environment which as they concern forestry, wild life and protected areas are commendable. But these remain policies and there is a world of difference between policy and law.

A brief look at these policies and how they control deforestation may not out of place here. This policy came into being over a decade ago. Government noted that there has been increased deforestation, soil degradation and desertification in recent years. These the Government acknowledged to be as a result of the spread of agriculture, commercial timber felling, local cutting of wood at will, forest fires for farming and gaming and accordingly the government adopted some strategies to achieve development while at the same time sustaining the productivity of the natural vegetation. To achieve this, it is the policy of government to:

1. Promote the rational exploitation of forest resources to meet domestic consumption needs and to achieve a significant export activity on a long term basis;
2. Regulate forestry activities to enhance conservation and environmentally sound management practices;
3. Monitoring the quantitative and qualitative chances of forest cover and their effects using conventional and modern technology such as multi-spectral satellite imagery;
4. Strengthening forest protection programmes to ensure adequate vegetation cover;
5. Protecting forest from bush and forest fires and taking measures to discourage wanton destruction of forest resources.

These are lendable policies which if fully implemented will go a long way to reduce deforestation to its barest minimum and the forest resources will be enhanced.

We would now look at two States laws on this: Forestry Law and Forestry Law of Oyo State of Nigeria. These laws share a lot in common and whatever is said of one applies to the other.

Like the Federal Acts on forestry, the State laws are meant for the preservation and control of forests within their territories. The laws prohibit the illegal felling of trees/timber and regulate the taking of forest produce, the sale and the purchase. In view of these the forestry law of the States empowers State Governors to constitute forest reserves Section 4(1) of the Delta State forestry Law empowers the governor of the State to constitute as forest reserves any of the following lands:

1. Lands at the disposal of government;

2. Any lands in respect of which it appears to the Governor with the advice of the appropriate authority that the forest growth on such land be established.

Subsection 5-12 of the Law lays down procedure for constituting forest reserves.

Establishment of Forest Protection Fund

Of serious significance is the establishment of Forest Protection Fund which fund shall be set aside and deducted at source for the purpose of the protection and the improvement of forest estate in the State (Wilkinson, 2002). The sources of the Forest Protection Fund are enumerated in section 24(3) of the law as follows: The Fund shall be derived from the following sources.

1. Any extra fees proceed of enforcement of section 27 of the Law which shall be known as log control fee of ten naira per kg and five hundred naira per lorry load of sawn timber leaving the State.
2. Any fund proceeds of enforcement of Regulation 29 (2) of this Law for the purpose of establishing a forest regeneration fund and a Forestry Board or a Forestry Commission.
3. 25% of the proceeds realized from the seizure of certain forest produce as provided by regulation 34 (a) of this Law; and
4. 25% of money received by way of compensation under offences created by Regulation 38 (1) of this Law.

Conservation of Forest

In order to prevent arbitrary exploitation of the forest resources the law empowers any Forestry Officer Administrative Officer or Police Officer to do the following:

1. Prevent the commission of any forestry offence;
2. Stop, enter and search a forest-produce-laden vehicle, boat or craft for the purpose of inspection of the produce;
3. Open, enter and serve a forest-produce-laden.

Section 25(2)(i) makes it an offence for the driver of a forest-produce laden vehicle, boat or craft to fail to stop for the purpose of inspection by any of the officers listed in Section 25(i). Similarly section 25(2)(ii) makes it an offence for the owner or management of a forest produce yard, store, beach, sawmill, container or any other thing to fail to allow any of the officers listed under this section to enter and search the yard, store, beach, sawmill containers or any other thing.

Although the penalty sections these laws make provision for punishment for offenders, such punishment, apart from being inadequate, are never seriously enforced. It is regrettable that penalties as low as N200 or six months imprisonment are still being enforced under these laws. If the 1958 Act could impose a fine as much as 100 pounds, there is no reason why a fine as ridiculous as N200 could be mentioned in a recent law. Such a fine can never be sufficient deterrent to illegal felling of trees which has made deforestation grow at faster rate.

How Adequate are these Laws in the Control of Deforestation?

It is our submission that there is the need for the government at the Federal level to re-introduce a very comprehensive Forestry law to improve on the existing ones at the States level. The need to adequately protect the remaining nation's forests resources from fire, over grazing,

erosion, and other causes of deforestation cannot be over-emphasized. One particular area that all the laws have left out is the belief in most communities of “*open access ownership*”. The belief that forests and forest products are any body’s property must be erased. Indeed, it is believed in most communities that only the brave and powerful go into the forest and whatever exists therein can be taken without hindrances.

Legislation should also be put in place making it mandatory that for every one tree felled, a replacement with a minimum of five trees seedlings must be made. It is only by so doing that we would have sustainable use of forests produce that would not harm the environment.

The laws on this topic may not be adequate; but even the ones that are available are not enforced as they ought to. In other words, despite the laws which exist in the States, deforestation has continued unabated. And as we noted before, urbanization, back-to-land policy of government, bush burning and illegal tree felling have all increased the problems of deforestation. Those who believe that laws cannot protect the environment in Nigeria seem to have good reasons to say so. Concluding the presentation on the issue that even though most of these laws exist in our statute books, they do not adequately protect the environment. Some of these laws are archaic, especially the penalty sections which makes a mockery of the law itself. It therefore offers very little protection to the environment.

But the problem as we noted earlier not necessarily be the lack of laws but one of enforcement. In spite of the forestry laws in all the states, how can we explain the report in the Guardian Newspaper reported as follows? Armies of illegal wood cutters have invaded Nigerian’s rain forest in search of fortune estimated at about N30 billion a year (about USD 4 billion). Their main market is teak wood which is in hot demand in European and American furniture factories, and from which they earn about N5.5 billion (about USD 6 billion) a year from Cross River forests alone. Governments of the major rain forest state-Cross River, Akwa-Ibom, Edo, Ogun and Ondo appear powerless to stop the forest plunders. Ill-equipped and outnumbered forest guards had complained that they could not stop the illegal plunders. As the market reels in this confusion, environmentalists have begun to voice opposition to the goings on (Zimmerman, 2005). They are worried that woods are not been replaced as they being felled, and raising concern about the environmental and ecological implications in the future of the plundering going on today.

The report was made some twenty years ago. The situation has not changed. Infact, it may even have gone worse. But the observation is food for thought.

CONCLUSION

It can be seen from the laws mentioned in this presentation that a lot needs to be done in the control of deforestation and protection of forest resources. The existing forestry laws are not only inadequate in protecting the forest, most of them, if not all are over 50 years behind time.

There is the urgent need for an Act of the National Assembly to improve and upgrade and modernize these archaic legislations at state levels. Forestry is a major part of the environment repealing the forestry Act and leaving it for the States is a decision that should be reversed.

Like the Tanzania experience in 2003, there is the need to bury once and for all these laws which are relics of British forestry policies and introduce Nigerian Forest policies. A harmonization of the Federal Government policies on the environment, particularly as they relates to forestry and wildlife preservation would be a good starting point.

It is equally our suggestion that the new Act should incorporate the provisions of the various bush burning Edicts, (now Laws), improving on the penalty provisions and the environmental impacts assessment Act.

Outside legislation, there is the need for greater education on the effects of deforestation caused by such burning. This act remains the most devastating vegetation cover destruction. At school levels, at village and community levels, even at church and mosques, there should be vigorous awareness campaign on the evil of bush burning. Every hand must be on deck to save the Nigerian forest. Let afforestation replace deforestation in the 1st lane in the race to save our forests and our environment.

REFERENCES

- Asokan, A., Chouhan, S., & Singh, V. (2015). Sacred grove a nature's gift as a remedy for human ailments, a biodiversity reservoir for restoring indigenous traits for endangered listed plants: A review. *Open Access Library Journal*, 2(7), 1-9.
- Barnhardt, R., & Kawagley, A.O. (2005). Indigenous knowledge systems and Alaska native ways of knowing. *Anthropology & Education Quarterly*, 26(1), 8-23.
- Cardelus, C.L., Scull, P., Hair, J., Baimas-George, M., Lowman, M.D., & Wassie Eshete, A. (2013). A preliminary assessment of Ethiopian sacred grove status at the landscape and ecosystem scales. *Diversity*, 5(2), 320-334.
- Chemhuru, M., & Masaka, D. (2010). Taboos as sources of shona people's environmental ethics. *Journal of Sustainable Development in Africa*, 12(7), 121-127.
- Etemire, U., & Sobere, N. (2020). Improving public compliance with modern environmental laws in Nigeria: Looking to traditional African norms and practices. *Journal of Energy & Natural Resources Law*, 38(3), 305-327.
- Ezenagu, N. (2020). Heritage resources as a driver for cultural tourism in Nigeria. *Cogent Arts & Humanities*, 7(1), 1734331.
- Freedman, B. (2018). *Environmental sciences: A Canadian perspectives*. Dalhousie University Library.
- Jariwala, C.M. (1993). Direction of environmental justice in India: Critical appraisal of 1987 case law. *Journal of the Indian Law Institute*, 35(1/2), 92-114.
- Negi, C.S. (2005). Religion and biodiversity conservation: Not a mere analogy. *The International Journal of Biodiversity Science and Management*, 1(2), 85-96.
- Osei-Tutu, P. (2017). Taboos as informal institutions of local resource management in Ghana: Why they are complied with or not. *Forest Policy and Economics*, 85, 114-123.
- Reardon, T., & Timmer, C.P. (2012). The economics of the food system revolution. *Annual Review of Resource Economics*, 4(1), 225-264.
- Wilkinson, D. (2002). *Environment and law*. Routledge.
- Zimmerman, E.M. (2005). Valuing traditional ecological knowledge: Incorporating the experience of indigenous people into global climate change policies. *New York University Environmental Law Journal*, 13, 803-810.

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