

An Examination of Customary Practices Related to Environmental Protection in Nigeria

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This paper is a discourse on the influence of customary practices in environmental governance in our traditional society before the advent of the English common law system with the aim to compare and contrast the efficacy or otherwise of such customary practices with the modern environmental laws. In Nigeria, customs are well defined, although, informal from one society to the other such that they tame human conducts with undeniable effectiveness because of the attached sanctions. It is no gainsaying that the current environmental regulatory regime has not achieved the desired goal of earning for the Nigerian people a safe and decent environment which is a prerequisite for human continuous existence. This paper argues that customary environmental practices are so effective till date in many Nigerian communities such that people observe and comply with those customary rules better than the modern legislations. The paper concludes that in view of the prevalent environmental challenges, the customary environmental practices could be codified to promote environmental protection and management in Nigeria given their efficacy.

Key Words: Customs and customary law, Environment and Environmental protection.

INTRODUCTION

The Latin maxim *ubi societas ibi jus*¹ is readily apt and applicable not only in the modern society but also in the traditional society in Nigeria. There had been misconceptions in the past about the existence of law in the society before the advent of colonial masters and their cultural-based legal system.² The fundamental truth however is that, no part of the Nigerian societies in their numbers was in any way in anomie in their traditional system of administration before the influence of the colonial oppressors. Prior to the introduction of the English common law system, which is now the major anchor of our modern legal system, the natives of the geographical areas now known as Nigeria, had a well-structured systems of administration both for governance and justice in their different societies and tribes. These various systems originated and subsumed in the customs and culture of the people, and they regulated every stratum of the society including the environment, mindful of the facts that the environment is ever pivotal to human existence.

The customs are well defined, although, informal from one society or tribe to the other such that they tame human conducts with undeniable efficacy. They operate in like manner and in *pari passu* with the modern laws as principles and rules which govern human conducts, the violation of which attracts sanctions. These customs are popularly referred to as customary laws. Customary laws, although vary from one traditional society to the other have some resemblance in characteristics and practices in Nigerian society. They are for examples generally unwritten and not codified. Be that as it may, the importance of these customary rules of governance and their practices in our society cannot in any way be over-emphasised because till-date, some of these rules still forms momentous parts and sources of our modern legal system. This paper examines the roles play by customary practices in the regulation and management of the environment in our traditional society before the advent of the common law system with the aim to compare and contrast their efficacy or otherwise with the modern environmental regulatory framework.

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¹ This maxim means wherever there is society, there is law. It follows that it is not realistic to run a functional society without law regulating the society.

² The Common Law system was imported to Nigeria by the colonial master and remains part of the Nigerian legal system till date.

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The paper concludes that the customary environmental practices could be codified given their efficacy to enhance environmental protection and management in Nigeria.

A DISCOURSE OF RELEVANT CONCEPTS

In any jurisprudential discourse as in the instant case, the best point of voyage is to understand the main concepts which in this case are encapsulated in the terms ‘custom’ and ‘environment’.

What is Custom?

It is noteworthy from the onset that customary laws originate from custom. In other words, custom is the ultimate cornerstone of all customary laws. In Africa generally, every ethnic group has evolved its own discrete customary legal system of rules that are binding on its members.³ Custom has been defined as “a right or duty which has come to exist through popular consent.”⁴ According to Viner,⁵ “a custom in the intendment of law is such a usage as hath obtained the force of law”. Richard Bruce⁶ gave five criteria for the validity of a custom as follows: Firstly, it must be of immemorial origin.⁷ Secondly, the custom must be reasonable if it is to pass the test of validity. Thirdly, the custom must exist without interruption. Fourthly, the custom must be certain and not vague. Fifthly, there must be common consent. Everyone concerned must have accepted that the custom did exist and that it was legally binding.⁸ Therefore, customs are long standing habitual or cultural practices that are adopted in any society by general consent with regulatory influence over the lives of the people of that society. In No doubt, custom is of great importance in any human society. In Nigeria, customs form the basis of our customary laws; and customary laws have over the years remained part and parcel of our legal system, and its application cut across almost all areas of our law.⁹

Customary Law

Generally, defining any expression or term in law is not an easy undertaking.¹⁰ The implication of this is that every legal writer defines an expression for his or her own purpose, and in the light of his or her own experience and probably idiosyncrasies. Consequently, a definition will certainly have that individualistic colouration.¹¹ In the expression customary law, two words are involved and both of them are vague, generic and omnibus in their individual content. The word ‘customary’ is etymologically large and not capable of a precise legal meaning; so also is the word ‘law’. Therefore, when the two expressions are loaded into one, the issue of a proper or precise definition becomes more cumbersome, and more onerous and herculean.¹² The word ‘customary’ means, according to or relating to custom or usage. It means founded on or growing out of, or dependent on a custom.¹³ Customary law consists of the indigenous customs of traditional communities.¹⁴ In the words of Abumere & Edeko, Customary law is a body of customs and traditions which regulated the relationship in the traditional settings of a community.¹⁵ Tobi¹⁶ is of the view that customary law means a law relating to custom and usage of a given community.

³ Kuruk P. ‘African customary law and the protection of folklore’ UNESCO Copyright Bulletin, Vol. XXXVI, No. 2, 2002, Page 6, available on <<http://unesdoc.unesco.org/images/0012/001277/127784e.pdf>> accessed 22 June 2015.

⁴ Abumere P. I., & Edeko S.E., Element of Legal Method, Ehiada(1990) page 7

⁵ Abridgement, vii, culled from Abumere P.I. et al. op cit.

⁶ Success in Law, Hong Kong, John Murray, 1978, page 8

⁷ The custom must have existed since time immemorial which is conveniently fixed at 1189 the year King Richard I came to the throne. See P.I Abumere, op cit page 8.

⁸ Ibid.

⁹ Till-date, customary laws govern our land law, family law, marriage, law of inheritance, custody of children, chieftaincy, etc.

¹⁰ See Niki Tobi, Sources of Nigerian Law, MIJ Professional Publishers 1996, page 103.

¹¹ Ibid.

¹² Ibid.

¹³ Black’s Law Dictionary, St’ Paul Minn. West Publishing Co. (5th Edition) Page 347.

¹⁴ Obilade A.O., The Nigerian Legal System, Sweet & Maxwell, 1979, p. 83.

¹⁵ Abumere P.I. et al. op cit. page 22

According to the learned author and Jurist, customary law emerges from the traditional usage or practice of a people in a given community, which, by common adoption and acquiescence on their part, and by long and unvarying habit, has acquired, to some extent element of compulsion, and force of law with reference to the community.¹⁷ And because of the element of compulsion which it has acquired over the years by constant, consistent and community usage, it attracts sanctions of different kinds and is enforceable.¹⁸

From judicial perspective, customary law has also been described by Bairamian, F J, in the case of *Owoniyi v Omotosho*¹⁹ as a “mirror of accepted usage.” In *Eshugbayi Eleko v. The Government of Nigeria*,²⁰ customary law was referred to as unwritten customs and traditions, which have been accepted as obligatory by members of a community.

Also Karibi -Whyte J.S.C.²¹ defined customary law as “a body of unwritten customs and traditions accepted as obligatory by members of the community for the regulation of the relations between its members.” The learned Jurist further opined that customary law derives its force from its acceptance by members of its subject-community as obligatory. Customary law is resilient and adjusts positively to changing social conditions. Any custom, which fails to respond to changing social conditions, loses its character of law... It is its quality of adaptability to changing social conditions that has earned it the apt description of the “mirror of accepted usage.”²² Osborn C.J. in *Lewis V. Bankole*²³ had this to say about customary law:

“One of the most striking features of West African native custom is its flexibility; it appears to have been always subject to motives of expediency and it shows unquestionable adaptability to altered circumstances without entirely losing its character”²⁴

With the foregoing definitions and understanding of the customary law concept, it is clear that customary law must not only be in existence, it must also be flexible, be part of the peoples’ customs, often unwritten, be acceptable to the people and also be universal in its application within the practices of the people to which it is applicable.

The Meaning of Environment

The environment is a phenomenon that every reasonable human is very familiar with, either consciously or otherwise. It is everything that makes up our surroundings and affects our ability to live on the planet earth.²⁵ In recent years, scientists have been carefully examining the ways that people affect the environment. Therefore, nowadays, when you hear people talk about “the environment”, they are often referring to the overall condition of our planet, and or how healthy it is.²⁶

Generally, the concept “environment” has no universally acceptable definition or meaning. To start with, from the provisions of Constitution of the Federal Republic of Nigeria²⁷, the term, ‘environment’ means the following:

(a) The water, air and land (b) Forest and wild life (c) All layers of the atmosphere (d) All organic and in-organic matter and living organisms and (e) The interacting natural systems that include components referred to in paragraph (a) to (d).

¹⁶ Niki Tobi, op cit. Pages 103-104.

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ (1961) 1 All NLR 304

²⁰ 8 N.L.R.1

²¹ Customary Law of Succession in Nigeria and Wills Law", All Nigeria Judges Conference Papers, 1993, Port- Harcourt, 15th-10th November 1993, Anatraco Limited Lagos, page162.

²² See also *Owoniyi v. Omotosho* Supra

²³ (1909) 1 NLR 100.

²⁴ Culled from Aduba J.N.; *Some Customary Practices that Affect the Enjoyment of Fundamental Human Rights of Women in Nigeria*, Available on

<<http://196.46.147.196/bitstream/10485/196/1/31%20SOME%20CUSTOMARY%20PRACTICES%20THAT%20AFFECT%20THE%20ENJOYMENT%20OF%20FUNDAMENTAL%20HUMAN%20RIGHTS%20OF%20WOMEN%20IN%20NIGERIA.pdf>> (accessed 29 June 2012)

²⁵ See <<http://www.factmonster.com/ipka/A0775267.html>> accessed on 27 February, 2015

²⁶ Ibid.

²⁷ See Section 20 of the Constitution of the Federal Republic of Nigeria 1999 (1999 Constitution)

In a more simplified sense, environment has been defined by National Environmental Standards and Regulations Enforcement Agency (Establishment) Act²⁸ (NESREA Act) as including “water, air, land and all plants and human being or animals living therein and the inter-relationship that exist among these or any of them”. Also, borrowing from foreign jurisdiction, section 1 of the United Kingdom Environmental Protection Act²⁹ defines the environment as consisting of “all, or any, of the following media, namely, the air, water and land; and the medium of air includes the air within buildings and the air within other natural or manmade structures above or below ground”.

Black’s Law Dictionary³⁰ described 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 peoples’ lives. The surrounding conditions, influences or forces which influence or modify”. According to Akinbode,³¹ environment is the totality of the places and surroundings in which we live, work, and interact with other people in our cultural, religious, political and socio-economic activities for self-fulfilment and advancement of our communities, societies or nations.

The environment has a tremendous influence on human life and the well-being of social communities.³² The environment affects us all. We all need a healthy environment to live healthy lives: clean air and water, safe living areas, sufficient and healthy foods.

Generally speaking, the environment from the above definitions is seen from nature, that is, the living world, including plants, animals, fungi and all landscape, such as mountainous and rivers.³³ Also, from the foregoing definitions or descriptions of the environment, it is clear that environment is all encompassing for the existence of all organisms including man.

NOTABLE THREATS TO ENVIRONMENTAL SECURITY IN NIGERIA

Globally, environmental distortions are mainly associated with the various interactions of man with the environment, although there are natural occurrences which are not anthropogenic that do impact on the environment. According to UNEP, any resource that is extracted and used in our economy and society has potential environmental impacts either immediately or on the long run.³⁴ Arising from this background, one would easily appreciate the reason why Nigeria is bedevilled with many environmental challenges that are related to exploration of natural resources.

The nature’s resources belong to nature, but when humans term them “natural resources” the implication is that these resources occur naturally and can thus be exploited by those nations where they are found. Attempting to resolve the pandemic environmental problems in any nation requires that we critically review the nature and root causes of some of these problems as well as the political filters through which we view them.³⁵

²⁸ See Section 37. NESREA Act 2007 by its Section 36 repealed Federal Environmental Protection Agency Act (FEPA Act), Cap F10 Laws of Federation of Nigeria (LFN)2004

²⁹ See Section 1 of the UK Environmental Protection Act 1990

³⁰ Centennial Edition (1891-1991) page369-370.

³¹ See Akinbode A., *Introductory Environmental Resource Management* (Daybis Limited, Ibadan 2002) pp. 1-2, Culled from Obabori A. A, Ekpu A.O.O, and Ojealaro B.P; An Appraisal of the Concept of Sustainable Environment under Nigerian Law, *J Hum Ecol*, (2009), 28(2), page 135. Op cit. Available on <<http://www.krepublishers.com/02-Journals/JHE/JHE-28-0-000-09-Web/JHE-28-2-000-09-Abst-PDF/JHE-28-02-135-09-1774-Obabori-A-O/JHE-28-02-135-09-1774-Obabori-A-O-Tt.pdf>> accessed 27 February 2015.

³² See ‘Know your Environmental Rights’, The Publication of the Department of Environmental Affairs, Republic of South Africa, 2014, available on <<https://www.environment.gov.za/sites/default/files/docs/knowyourenviromentalrights.pdf>> accessed on the 27 February 2015.

³³ See National Open University Study materials on Environmental Law I. Available on <http://www.nou.edu.ng/NOUN_OCL/pdf/Laws/LAW%20321%20Environmental%20Law%201.pdf> accessed 28 February 2015.

³⁴ See UNEP ‘Environmental Risks and Challenges of Anthropogenic Metals Flows and Cycles’ being Report 3 of the Global Metal Flows Working Group of the International Resource Panel of UNEP. Available on <http://www.unep.org/resourcepanel/Portals/24102/PDFs/Environmental_Challenges_Metals-Full%20Report.pdf> accessed 14 March 2015.

³⁵ See Bassey N., ‘Nigeria: National and Global Environmental Challenges’ op cit

While some environmental problems are natural, most of Nigeria's cases are anthropogenic in nature. Some of these environmental challenges are herein examined *seriatim*.

(i) Urbanisation

Urbanisation is the process in which the number of people living in cities increases compared with the number of people living in rural areas.³⁶ A country is considered to be urbanised when over 50% of its population lives in urban places.³⁷ Urbanization is caused by high population growth rate and rural-urban migration.³⁸ Urbanization is the physical growth of urban areas as a result of rural migration and even suburban concentration into cities particularly the very large ones.³⁹

The Nigeria's urbanisation is unique in that, it is characterized by city slums and shanties with serious environmental consequences. The problem is acute and exemplifies the inability of development measures to keep pace with the rate of population growth as expected in the modern world. Wastes disposal problem (such as sewage and refuse) is quite serious because of the rapid rate of generation of non-biodegradable materials in the cities such as polymers and related materials.⁴⁰ The Nigerian environment in the cities has deteriorated greatly due to the rapid growth of the cities and the concomitant inability of social services and infrastructures to keep pace with the rate of growth.

(ii) Deforestation

Deforestation is another prominent environmental challenge in Nigeria because of the poverty-ridden nature of the society.⁴¹ Forests are large area of land with trees and are noticeable in area with subequatorial and monsoon types of climates.⁴² The importance of the forest to man globally cannot be over-emphasized. Among other things, forests act as sanctuary for rare and or endangered animals; act as storm breaks, thereby protecting the towns and villages against destruction from various winds in their violence; provide useful products such as timber or wood and char-coal for fuel, fibre for paper and textiles, medicine from the bark and leaves of some plant, breeding ground for animals, check erosion, and supply of food and materials for building houses.⁴³

Deforestation is the removal of a forest or stand of trees while the land is thereafter converted to a non-forest use. Examples of deforestation include conversion of forestland to farms, ranches, or urban use. Where deforestation is prominent practices as in the Nigeria's case, the environment is seriously jeopardized as the opposite of the above-mentioned advantages of forests become the common but sad experience. When forests are cleared, the soils are exposed to environmental hazards of erosion, floods, and eventually, rivers and lakes are filled up with silt. Consequently, the water becomes dirty and impure for mankind. The removal of tree canopy, especially the leaves also has effect on the rainfall of that area, as there is less leaf surface area for the transpiration of water, which in turn affects the relative humidity of the atmosphere which will in turn, determines the rainfall.

(iii) Desertification

The United Nations Convention to Combat Desertification (UNCCD) defines the term 'desertification' as 'land degradation in arid, semi-arid and sub-humid areas resulting from various factors including climatic variations and human activities'.⁴⁴

³⁶ See 'Urbanisation' <<http://www.botany.uwc.ac.za/envfacts/facts/urbanisation.htm>> accessed 16 March 2015.

³⁷ Ibid.

³⁸ Omofonmwan S. I. and Osa-Edoh G. I., 'The Challenges of Environmental Problems in Nigeria' (2008), 23(1) J. Hum. Ecol. 53-57, Available on <<http://www.krepublishers.com/02-Journals/JHE/JHE-23-0-000-2008-Web/JHE-23-1-000-000-2008-Abst-PDF/JHE-23-1-053-08-1650-Omofonmwan-S-I/JHE-23-1-053-08-1650-Omofonmwan-S-I-Tt.pdf>> accessed 16 March 2015.

³⁹ See Students-Diary 'Urbanization in Nigeria: Problems and Solutions' <<http://www.studentsdiary.net/articles/urbanization-nigeria-problems-solutions/>> accessed 16 March 2015

⁴⁰ Ibid.

⁴¹ Most Nigerian villagers live on subsistence farming where they practice shifting cultivations yearly. They also depend on firewood to cater for energy needs. This accounts for large proportion of deforestation in Nigeria.

⁴² Omofonmwan S. I. and Osa-Edoh G. I., 'The Challenges of Environmental Problems in Nigeria' op cit.

⁴³ Ibid.

⁴⁴ See Article 1(a), UNCCD 1994. See also <<http://www.unesco.org/mab/doc/ekocd/chapter1.html>> accessed 16 March 2015. The UNCCD which was established 1994 is the sole legally binding international agreement linking environment

The UNCCD adopted a definition of desertification that attributes the causes of this phenomenon to both climatic variations and human activities. UNCCD further added, ‘desertification is caused by complex interactions among physical, biological, political, social, cultural and economic factors’.⁴⁵

Desertification is a dynamic process that is observed in dry and fragile ecosystems. It affects terrestrial areas (topsoil, earth, groundwater reserves, and surface run-off), animal and plant populations, as well as human settlements and their amenities (for instance, terraces and dams).⁴⁶ Deserts are barren lands, waterless and treeless, and often sand-covered such as Sahara desert which spread across the continent of Africa. Desertification therefore, is the encroachment of the desert on land that was once fertile.⁴⁷ Desertification can be induced either by natural process or anthropogenic force. Natural hazards such as drought and sand deposit by winds are prime factors in the desertification process. Desertification is more pronounced in the northern part of Nigeria where the Sahara desert has eaten deep into the once fertile land.⁴⁸ Desertification is dangerous to man. It often leads to water scarcity, famine, diseases, and destruction of crops, livestock and even man.

In 2013, the Nigeria’s then Minister of Environment Mrs. Hadiza Ibrahim Mailafia disclosed during the Flag off of the Great Green Wall, (GGW) programme, in Bachaka Kebbi State, that 43.3 per cent of the total land area of Nigeria is prone to desertification hence, there is need to protect the resource based ecosystem.⁴⁹ According to then Minister, “40 million Nigerians were affected by desertification each year, and this poses serious threats to livelihoods of the citizens”. “The problem is quite alarming and can cripple provision of land resources based ecosystem, services that are vital for a number of development sectors. The rate of desertification in the country is reported to be high with the attendant destruction of farmlands and livelihoods, particularly in the affected states. Also, the country is losing about 2,168sq km of range land and cropland to desertification each year and this poses serious threats to livelihoods of about 40 million people.”⁵⁰

(iv.) Pollution

Pollution is simply the process of making land, water, air or other parts of our environment dirty and unsafe or unsuitable to use.⁵¹ This can be done through the introduction of a contaminant into a natural environment, but the contaminant does not necessarily need be tangible. Things as simple as light, sound and temperature can be considered pollutants when introduced artificially into an environment.⁵² Environmental pollution in Nigeria, just like in some other human communities has been in existence since man began to live in settlements.⁵³ The environment surrounds and affects man, while man also affects the environment, especially through pollution.⁵⁴ Historically, in the earlier days of nomadic hunting communities, the tribal group moved on when food in their current location became depleted and the environment around their temporary lodge or camp became polluted or soiled.⁵⁵ The nomads were a part of a balanced eco-system. As man developed, lands were being cultivated, livestock domesticated; and as permanent settlements became established, environmental contamination began to emerge.⁵⁶

and development to sustainable land management. See <<http://www.unccd.int/en/about-the-convention/Pages/About-the-Convention.aspx>> accessed 16 March 2015.

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ Omofonmwan S. I. and Osa-Edoh G. I., ‘The Challenges of Environmental Problems in Nigeria’ op cit.

⁴⁸ Ibid.

⁴⁹ See Olasupo F. ‘43.3% land area prone to desertification in Nigeria’ posted by Vanguard Newspaper (Nigeria 09 July, 2013) <<http://www.vanguardngr.com/2013/07/43-3-land-area-prone-to-desertification-in-nigeria-mailafia/>> accessed on 17 March 2015.

⁵⁰ Ibid.

⁵¹ See Alina Bradford ‘Pollution Facts & Types of Pollution’ <<http://www.livescience.com/22728-pollution-facts.html>> accessed 17 March 2015.

⁵² Ibid.

⁵³ Amokaye O.G., ‘Environmental Pollution and Challenges of Environmental Governance in Nigeria’ op cit p. 28

⁵⁴ See Olokesusi A., ‘Characteristics of Environmental Problems in Nigeria and Management Prospects’, (1987) 7(1) The Environmentalist 55.

⁵⁵ Amokaye O. G. op cit. p 28.

⁵⁶ Ibid.

Generally, environmental pollution is often categorized into three groups viz: air or atmospheric pollution, aquatic or water pollution and land or surface area pollution.⁵⁷ The World Health Organization (WHO) (1990) defined air pollution as “limited to situation in which the outer ambient atmosphere contains materials in concentrations which are harmful to man and his environment”.⁵⁸ Anthropogenic activities on the earth surface have seriously degraded the quality of the lower atmosphere. Given the inventive nature of man, the growth and development of industries and Urbanization have contributed greatly to the abnormal carbon monoxide produced by combustion and other human activities. Carbon monoxide is dangerous to man, as it reacts with the blood vessel and prevents it from taking up oxygen and thus makes people suffocate.⁵⁹

Air pollution occurs when things that aren't normally part of the air are infused to the air. A common example of air pollution happens when people release particles into the air from burning fuels. This pollution looks like soot, containing millions of tiny particles, floating in the air,⁶⁰ and the impact on the consumers of air is deadly. Old and rickety cars are common sights on the Nigerian roads. They emit indiscriminately smokes made up of carbon monoxide that are destructive to health and create problem for the ozone layers. Other air pollution includes dangerous gases, such as sulphur dioxide, nitrogen oxides and chemical vapours.

On the other hand, aquatic or water pollution happens when chemicals or dangerous foreign substances are introduced to water, including chemicals, sewage, pesticides and fertilizers from agricultural runoff, or metals like lead or mercury. In Nigeria, the discharge of unwanted biological, chemical and physical materials into water bodies is common. Most wastes in the country are deposited in water including the ocean and lagoons. This incidence is responsible for the wide spread water contamination in most Nigerian cities like Lagos and Port Harcourt among others.⁶¹ Many Nigerians are also in bad habit of throwing their solid waste into streams, rivers and water ways in the cities. Land pollution is as well a challenge in Nigeria. The commonest pollutant on land is the waste products that are often scattered on land areas in our towns and cities. With the poor framework or structure in waste management, and unmanaged urbanisation in Nigeria, land pollution is a serious environmental crisis in our towns and cities.

(v.) Erosion

Globally, erosion is a problem that often commands attention in environmental management.⁶² Erosion is simply a systematic removal of soil, including plant nutrients, from the land surface by the various agents of denudation under different geological, climatic and soil conditions.⁶³ While this is often experienced in Nigeria, the degree of occurrence varies considerably from one part of the country to the other.⁶⁴ Erosion can also be described as the act in which earth is worn away, often by water, wind, or ice.

Different factors account for erosion in different places, as well as the ‘types of erosion’ experienced.⁶⁵ Save for some of the forest reserves⁶⁶ in some part of the country, there is hardly any such soil that has not been disturbed.

⁵⁷ Omofonmwan S. I. and Osa-Edoh G. I., ‘The Challenges of Environmental Problems in Nigeria’ op cit.

⁵⁸ See World Health Organization: The Impact of Development Policies on Health. Pp. 21-40, in A Review of the Life Nature. Dianna A. and Cooper D. (Eds.). WHO, Geneva (1990) culled from Omofonmwan S. I. and Osa-Edoh G. I., *ibid*.

⁵⁹ *Ibid*.

⁶⁰ *Ibid*.

⁶¹ Omofonmwan S. I. and Osa-Edoh G. I., ‘The Challenges of Environmental Problems in Nigeria’ op cit.

⁶² See for instance The World Bank on ‘Nigeria Erosion and Watershed Management Project’

<<http://www.worldbank.org/projects/P124905/nigeria-erosion-watershed-management-project?lang=en>> accessed 20 March 2015.

⁶³ Ofomata G.E.K., ‘Soil Erosion in Nigeria: The Views of a Geomorphologist’

<<http://www.unn.edu.ng/files/Inaugural%20Lecture%20Documents/Environmental%20Studies/No%207%20Inaugral%20Lecture.pdf>> accessed 17 March 2015.

⁶⁴ *Ibid*. Therefore, while soil erosion is one of the most prominent and striking features on the land surface of South-eastern Nigeria, especially in Anambra and Imo States, only rare occurrences of the phenomenon are recorded in some other States of Nigeria.

⁶⁵ Types of erosion in Nigeria include: Gully erosion, sheet erosion, rill erosion, wind erosion etc.

⁶⁶ The estimated total area of forest reserves in Nigeria is 10 million ha, which is about 10% of the total land area of Nigeria (World Bank 1992). See World Bank, (1992), Federal Republic of Nigeria. Forestry Sector Review. Confidential Report No. 10744-UNI. It should be noted that forest reserves vary according to ecological classification by regions in Nigeria. Hence, forest reserves in the Savannah and Sahel regions in the Northern Nigeria may not necessarily have adequate timber

This is because, man, the major custodian of the environment needs the soil for his cultivation and has to clear the ground (bush or forest) for farming and other related developmental activities. He also burns the grass and trees and has the need to graze his animals.⁶⁷ Each of these activities exposes the soil to erosion and invariably, to "accelerated" soil deterioration, depending on the existence of other favourable conditions. The other factors responsible for erosion include climate, topographic disposition and lithology, especially the nature of surface materials.⁶⁸ In the South-East Nigeria, heavy rainfall is the major cause of gully erosion. While farmers need regular rainfall for their crops, raindrops can be a major challenge to farmers when they strike bare soil. With an impact of up to 30 mph, rain washes out seed and splashes soil into the air.⁶⁹ In the Northern Nigeria however, wind is often the cause of erosion. The wind erosion process detaches soil particles from the land surface and transports them by wind. It occurs when forces exerted by wind overcome the gravitational and cohesive forces of soil particles on the surface of the ground.⁷⁰ Wind erosion is a serious environmental problem attracting the attention of many experts across the globe. It is a common phenomenon occurring mostly in flat, bare areas; dry, sandy soils; or anywhere the soil is loose, dry and finely granulated.⁷¹ Wind erosion destroys land and natural vegetation by removing soil from one place and depositing it in another. It causes soil loss, dryness and deterioration of soil structure, nutrient and productivity losses as well as air pollution. All these are part of environmental problems in Nigeria.

(vi.) Solid Waste Mismanagement

Arising from the daily increase in population, urbanization and industrialization including the recent globalization, the challenge of solid waste management in Nigeria has increased, and even now complex, especially in the major cities and towns.⁷² The major urban cities in Nigeria are today battling with how to clear mounting heaps of solid waste from their environments, and it appears the challenge is daily becoming insurmountable. Our cities meant to be strategic centers of beauty, peace and security are being overtaken by the messy nature of overflowing dumps, unattended heaps of solid wastes emanating from industrial, domestic or kitchen sources, markets, shopping and business centers.⁷³

Although some states, besides environmental management agencies, have also engaged waste disposal contractors to combat unlawful and haphazard dumping of solid wastes on the streets and drainages, which are a clear violation of relevant environmental laws in the states.⁷⁴ The inability of government owned agencies to adequately cope with the upsurge in the volume of municipal solid waste generated by the outrageous population has over the years affected our environment and created, till date a poor culture in the collection, transportation, recovery, recycling and disposal of solid waste in Nigeria.⁷⁵

For avoidance of doubt, solid wastes are all the materials unused, and rejected as worthless arising from human and animal activities. They are normally solid, and discarded either in the household or in the public including industrial wastes. Solid wastes have become recurring features in our urban environment.⁷⁶ It is no longer debatable that our cities are deluged with the menace of unattended solid wastes.

resources like those in the lowland rain forest areas of southern Nigeria. See FAO Corporate Document Repository, 'Forest Resource Situation Assessment of Nigeria' <<http://www.fao.org/docrep/004/ab578e/AB578E06.htm>> accessed 17 March 2015.

⁶⁷ Ofomata G.E.K., 'Soil Erosion in Nigeria: The Views of a Geomorphologist' op cit.

⁶⁸ Ibid.

⁶⁹ See Oseni B., 'Soil Erosion' <<http://nigeriaenvironment.blogspot.com/2012/12/soil-erosion.html>> accessed 17 March 2015.

⁷⁰ See <<http://www.environment.nsw.gov.au/soildegradation/winder.htm>> accessed 17 March 2015.

⁷¹ See 'Wind Erosion' <<http://milford.nserl.purdue.edu/weppdocs/overview/wndersn.html>> accessed 17 March 2015.

⁷² Tobore I.E., 'Solid Waste Management in Nigeria' D-Waste <<http://d-waste.com/new-infographics/item/124-solid-waste-management-in-nigeria.html>> accessed 18 March 2015.

⁷³ Agwu M.O., 'Issues and Challenges of Solid Waste Management Practices in Port-Harcourt City, Nigeria- a behavioural perspective' (2012) 3(2, Am. J. Soc. Mgmt. Sci., 83-92 at 83

⁷⁴ Ibid. Example of such states includes Oyo, Lagos, and Rivers among others.

⁷⁵ See Adebola O.O., 'The Roles of Informal Private Sector in Integrated Solid Waste Management in the Achievement of the Millennium Development Goals (MDGs) in Lagos, Nigeria' being a paper presented at the Solid Waste, Health & Millennium Development Goals, CWG- WASH Workshop 2006. in Kolkata, India. Available on <<http://www.richbol.com/CWGPaperKolkataIndia.pdf>> accessed 18 March 2015.

⁷⁶ This includes Lagos, Ibadan, Aba, Port Harcourt, Kano, Kaduna, among others.

Hence, urban residents are often confronted with the hazardous consequence to their collective health and safety. The clamour over the health implications of exposed and fermenting garbage on our streets have not been quantified, although their impact is noticeable.⁷⁷

According To UNEP,⁷⁸

“The increasing volume and complexity of solid (*sic*) waste associated with the modern economy is posing a serious risk to ecosystems and human health globally(*sic*). Every year, an estimated 11.2 billion tonnes of solid waste is collected worldwide and decay of the organic proportion of solid waste is contributing about 5 per cent of global greenhouse gas emissions. of all the waste streams, waste from electrical and electronic equipment containing new and complex hazardous substances presents the fastest-growing challenge in both developed and developing countries.”

“Poor solid (*sic*) waste management - ranging from non-existing collection systems to ineffective disposal, often (*sic*) cause air pollution, water and soil contamination. Open and unsanitary landfills contribute to contamination of drinking water and can cause infection and transmit diseases. The dispersal of debris pollutes ecosystems and dangerous substances from electronic waste or industrial garbage puts a strain on the health of urban dwellers and the environment.”

The foregoing is a clear picture of not only the challenge of solid waste globally but in Nigeria in particular.

(vii.) Bush-burning

Bush-burning is a common phenomenon in the Nigeria’s environment, especially in the rural areas where hunting for bush animals is still part of the means of survival. During dry season, bushes are set on fire by local hunters or a group of young villagers to expose animals in order to kill them for domestic consumption or for sale. This practice affects vast areas of land in Nigeria yearly. Fire is very destructive to the environment. When fire is kindled, if not timely quenched, no one could determine the extent it could burn and possible damage to flora and fauna.

Although, fire incident is not peculiar to Nigeria,⁷⁹ it has affected our environment negatively over the years especially in the north-central states of Kogi, Niger, Kwara, Nasarawa etc. and even Federal Capital Territory, as many lands have been rendered infertile because of yearly bush-burning.

CURRENT LEGAL REGIME ON ENVIRONMENT AND ITS EFFICACY IN NIGERIA

If we must conclude from the beginning, it is without apology that one could say that the contemporary legal regime on environment in Nigeria has flopped and as such has not been able to achieve the desired result in sustainable human interaction with the environment. The reason for the failure is simply traceable to the fact that the present common law system and its practice adopted in Nigeria is an offshoot of western culture and civilisation without any true reflection of our own customs and culture. No doubt, the western law itself is predicated on the westerners’ culture. Hence, it is often found effective in their society while on the other hand we find it largely not functional in our society.

While it appears the problem behind the present inefficacy of our modern environmental legislations is that of implementation or enforcement, one may also be tempted to hinge it on prevalent corruption in our society.

⁷⁷ Agwu M.O., ‘Issues and Challenges of Solid Waste Management Practices in Port-Harcourt City, Nigeria- a behavioural perspective’ op cit.at p.84.

⁷⁸ See UNEP ‘Solid Waste Management’

<<http://www.unep.org/resourceefficiency/Policy/ResourceEfficientCities/FocusAreas/SolidWasteManagement/tabid/101668/Default.aspx>> accessed 18 March 2015.

⁷⁹ A case in point is the 2014 Northern California wildfires which burned thousands of acres of land, damaged critical infrastructure and destroyed homes for which Gov. Jerry Brown in Sacramento to declare a state of emergency. See International Business Times <<http://www.ibtimes.com/california-wildfires-2014-governor-jerry-brown-declares-state-emergency-saturday-1647182>> and <<http://www.latimes.com/local/lanow/la-me-ln-california-1000-wildfires-20140923-story.html>> accessed 18 March 2015. Another case in point is the large bushfire that burned more than 80,000 hectares of forest and private land in Western Australia’s south, which was declared a national disaster. See (The guardian Western Australia 06 February 2015) <<http://www.theguardian.com/australia-news/2015/feb/06/western-australia-fire-declared-a-national-disaster>> accessed 18 March 2015.

Again, it may be argued that lack of political will on the part of the government or lack of adequate publicity has contributed to the current pronounced inefficacious environmental legal regime. While all these appear to be good arguments, one should be quick to bear in mind that any societal law that does not reflect or accommodate the custom and culture of the people will be well celebrated in its breaches than in compliance. It is therefore no wonder that our various legal frameworks on environmental protection are often impotent as if no law exists to regulate the environment. For example, National Environmental Standards and Regulations Enforcement Agency (NESREA) is empowered to provide for the approval of the Minister of Environment guidelines and regulations for control of deforestation and bush-burning among other things,⁸⁰ yet bush-burning for hunting games and others is a common phenomenon in Nigeria. Indeed, there are extant regulations that address such issues without any meaningful impact.⁸¹ Again, pollution generally is an offence in Nigeria,⁸² yet people burn their waste daily, create noise daily and emit all manner of toxicant into the air and discharge poisonous substances to water without any regard for the so-called environmental laws in the Nigerian society.

In order not to belabour the discussion and for the purposes of this paper, the focus shall be majorly on the Nigerian Constitutional⁸³ provisions on environmental protection being the highest organic law in Nigeria on the one hand, and the 'all-important' NESREA Act.⁸⁴

By Section 20, the Constitution of the Federal Republic of Nigeria 1999 (as amended) provides that "The State shall protect and improve the environment and safeguard the water, air and land, forest and wild life of Nigeria."

⁸⁵ That is all the Nigerian Constitution has to say about the environment in spite of its momentousness to humanity.

NESREA Act repealed Federal Environmental Protection Agency Act.⁸⁶ By the provisions of NESREA Act, NESREA (Agency) is charged with the responsibility of enforcing all environmental laws, guidelines, policies, standards and regulations in Nigeria. It also has the responsibility to enforce compliance with provisions of international agreements, protocols, conventions and treaties on the environment. The vision of the Agency is to ensure a cleaner and healthier environment for all Nigerians, while the mission is to inspire personal and collective responsibility in building an environmentally conscious society for the achievement of sustainable development in Nigeria.

An assessment of the foregoing major national laws has revealed that much is still desired in achieving a sustainable environmental management. The constitutional provision is a non-justiciable provision. In addition, the Agency established by the NESREA Act to enforce both local and international laws on environment generally has been irresponsive and dull toward the herculean task of bequeathing a good environment to the coming generations which is the global demand especially given the challenge of the climate change. It is disheartening that many Nigerians, especially in the rural communities where interaction with nature is frequent do not even know anything about the existence of NESREA till date. The implication or reasonable conclusion is that the purpose of NESREA Act is far from being realistic in relation to these rural Nigerians.

In addition, NESREA is by its establishing law prohibited from regulating any environmental issues that affects the oil and gas sector in Nigeria where the worst of all environmental crises are generated.⁸⁷ With such self-limiting provision in NESREA Act, the agency is unduly destined to fail in environmental governance in Nigeria because oil and gas sector remains the principal source of environmental woes in the country. To this end, it is therefore not in doubt that our cultural provisions and practices on environmental management cannot but be revisited to augment the extant but feckless legislative frameworks.

⁸⁰ See Section 8(k) National Environmental Standards and Regulations Enforcement Agency (Establishment) Act (NESREA ACT), 2007. Cap N164 Laws of Federation of Nigeria 2010.

⁸¹ National Environmental (Control of Bush/Forest Fire and Open Burning) Regulations, S.I. No. 15 of 2011, Vol. 98 Federal Republic of Nigeria Official Gazette 2011(hereinafter S.I. No. 15 of 2011).

⁸² See generally sections 20 - 23 of NESREA Act 2007.

⁸³ The Constitution of the Federal Republic of Nigeria 1999 (as amended)

⁸⁴ NESREA Act was enacted in 2007 and signed into law by the then President Umaru Musa Yar Adua.

⁸⁵ This provision falls under Chapter 2 of the Constitution which is non-justiciable. It only provides directive principles for state objectives

⁸⁶ Cap F 10 LFN 2004 which was promulgated as Decree 58 of 1988

⁸⁷ See sections 7 (g, h, j and k) and 8(g and k) of NESREA Act 2007.

CUSTOMARY PRACTICES AND RESPONSES TO ENVIRONMENTAL PROTECTION IN NIGERIA

As earlier asserted, customary Law is the ultimate basis of all human activities all over the world as the customs of the people cannot be divorced from their *modus vivendi*. Therefore, custom remains the underlining factor of any legal system. Custom is dynamic rather than static; providing the guiding principles of interrelationship between one generation and the next. Having been described as the mirror of accepted usage, it means, it is capable of flexibility and adaptability to changing circumstances and society. The customary laws of an area encapsulate all the beliefs, social institution and religion that characterizes and are unique to a community or race. Customary practices differ from place to place and no one practice can be said to be inferior or superior to the other. This is why it is virtually impossible to replace one culture with another.⁸⁸

In the protection and management of the environment, customary law has played vital roles in Nigeria even before the present environmental law regime. Depending on the culture of the people, Nigerian societies generally have many rich cultural practices which are humane, unique and allow for true environmental protection and administration of environmental resources in a sustainable manner. However, within the different cultures are some practices that are discriminatory, lopsided and archaic in a modern world and summarized generally as being repugnant to natural justice, equity and good conscience.⁸⁹ Some of the customary practices in Nigeria that are designed to protect the environment include but not limited to the following:

The use of Taboos

From its Etymology, 'taboo' is a derivation of the Polynesian term 'tabu' which means forbidden. It is similar to the *sacer* in the Greek, *Kadesh* in Hebrew, *Eewo* in Yoruba and *Nso* in Igbo language of Nigeria.⁹⁰ Within its historical usage taboo was a sacred term for a set of cultic or religious prohibitions instituted by traditional religious authorities as instruments for moral motivation, guidance, and objectivity for protecting the sanctity of their shrines and the well-being of their worshipping communities.⁹¹ Taboo is also applicable to any sort of social prohibition imposed by the leadership of any given community regarding certain times, places, actions, events, and people etc. especially, but not exclusively, for religious reasons for the well-being of the society. Taboo may therefore be used in two senses. The narrower sense represents the cultic or purely religious usage, while the broader sense represents its usage in socio-economic and political contexts.⁹²

Restrictions through taboos on unsustainable exploitation of certain environment's components such as plant species, forests, mountains, rivers, pools and animals, among other ecological species in the ecosystem, is not a new epistemology among the Nigerian people, but reflects a long tradition.⁹³ The taboos governing interactions between people and their environment in any society are complex and dynamic.⁹⁴ Many taboos regarding environment may be difficult for outsiders to understand as they have developed, and continue to develop, through long processes of association and interpretation of natural phenomena.⁹⁵

⁸⁸ See Bamgbose O.; 'Customary Law Practices and Violence Against Women: The Position under the Nigerian Legal System',

<http://www.vanuatu.usp.ac.fj/sol_adobe_documents/usp%20only/customary%20law/Oluyemisi%20Bamgbose.htm> (accessed 29th June 2012)

⁸⁹ Ibid. Example of such culture or custom includes violence or discrimination against women, in the area of right of ownership of land or property in the society. Land is part of the environment and environment is our common heritage. It belongs to all humans present and yet unborn.

⁹⁰ Joseph Osei, 'The Value of African Taboos for Biodiversity and Sustainable Development' <http://www.jsd-africa.com/Jsda/Fall2006/PDF/Arc_the%20Value%20of%20African%20Taboos.pdf> accessed on 18 June 2015

⁹¹ Ibid.

⁹² Ibid.

⁹³ Chemhuru M., and Masaka D., 'Taboos as Sources of Shona People's Environmental Ethics', (2010) 12(7), Journal of Sustainable Development in Africa, Clarion University of Pennsylvania, Clarion, Pennsylvania 121-133 at 121.

⁹⁴ See Masalu, D.C.P., Shalli, M.S. and Kitula, R.A. 'Customs and Taboos: The role of indigenous knowledge in the management of fish stocks and coral reefs in Tanzania' Coral Reef Targeted Research and Capacity Building for Management Program, 2010, available on <http://siteresources.worldbank.org/EXTCMM/Resources/CRTR_Customs_Taboos.pdf> accessed on 18 June 2015.

⁹⁵ Ibid

Taboo is part of people's customs and is generally defined as a prohibition. This prohibition can be on what one is not allowed to do, or objects with which one must not come into contact, or words which must not be uttered and places which must be avoided. Many of the taboos are found and applicable in the management of the environment. In some Nigerian communities, there are rivers, streams or lakes where fishing is prohibited.⁹⁶ Also, there are bushes or forests where hunting and other activities are not allowed. There are also sacred mangroves,⁹⁷ bushes and forests dedicated to gods and communal shrines where people are not allowed to enter for farming or felling of trees. The rationale for all these taboos is for the sustainable use and management of the environment.

Dedication of Some Animals as Sacred beings

In Nigeria, just like in some other nations, in order to protect the endangered species, some animals such as elephants, Python, Eagle, Crocodile among others have been dedicated to village gods. The people are prevented from killing or eating them. In some parts of Ebonyi and Imo states of Nigeria, it is forbidden to kill snakes let alone eating them. In some part of Rivers state, Crocodile is seen as sacred being with some super power. Hence, they are not to be killed, so also Hippopotamus.

Protection and preservation of certain Plants Species as Sacred Trees

There are communities where certain plants species must not be cut down even when cultivations are carried out for farming. These plants are in the belief of the people sacred for herbal medicine or religious worship and are specially given to such communities by God. For instance, in some communities, Iroko trees are worshipped as sacred trees and must not be cut down without the permission of the village gods according to them. This has been adopted and is effective in a way for the sustainable exploitation of the environment.

Shifting Cultivation

Farming was the predominant occupation in many traditional societies in Nigeria. Some communities have local policy of shifting cultivation such that any cultivated portion of land for cropping in a year must be left uncultivated for years after harvesting for that year. This is undoubtedly good for the environment as it prevents over-cultivation which often leads to soil erosion.⁹⁸

Designation of Hills and Mountains as Sacred

In some community's hills and mountains were in the past designated as sacred where people meet with their gods and forefathers as the case may be. Such mountains or hills are often protected by the community from defilement of any kind. This has been very effective in the protection of the environment and sustainable development as some of those hills and mountains are eventually developed and made centre for tourism and recreation. A good case in point is the Idanre hill in Ondo state which often attracts many tourists yearly.

Dietary Restrictions

While the aphorism goes, 'one-man food is another man's poison', it is important to note that many customary practices relating to food restriction of plants, animals and birds among others as the case may be are meant and designed by different communities to protect the environment from mismanagement by man. There are communities where bush animals are completely not allowed as food by community members. Some are restricted from eating certain fruits, vegetable or crops. All these are designed to protect and sustain the environment, and were very effective.

⁹⁶ For instance in Osan-Ekiti, in Ekiti State, it is prohibited to fish from 'Omi Isun' - a spring from where the community fetch water from.

⁹⁷ Mangroves are common in places like Niger Delta regions, especially in sheltered bays and estuaries, providing shelter to many important fish species and prawns. However, they are often threatened by intensive cropping, firewood collection, poles harvesting, tannin extraction, medicinal products extraction, paper pulp and timber harvesting, space for aquaculture and salt production. Mangrove swamps are also threatened by fluctuations in the amount of fresh water and sediment reaching them as a result of upstream damming of rivers. The presence of sacred mangrove forests acts as a good mechanism for mangrove forests protection.

⁹⁸ Soil erosion is generally unfriendly with any environment. It destroys land and beauty of environment.

ENFORCEMENT MECHANISMS OF CUSTOMARY PRACTICES RELEVANT TO ENVIRONMENTAL PROTECTION

Elders, chiefs and community leaders in traditional societies often respond to some of the adverse consequences of the haphazard use, exploitation and any breach of the communal rules relating to environmental protection by utilizing the enforcement mechanisms available under customary law.⁹⁹ This can be accomplished through a non-statutory adjudication systems of chiefs and elders left intact but not officially recognized by the colonial and post-independence governments.¹⁰⁰ The procedures for non-statutory adjudication under customary law vary depending on whether the society is centralized or not. In centralized societies, elaborate administrative machinery exists and the constituent units of the society tend to be bound together by common interests and loyalty to a political superior, usually the chief or king.¹⁰¹ The non-centralized systems or societies on the other hand, have no one single authority enjoying a concentration of political, judicial or military power capable of controlling by direct decrees the activities of members of the group and the judicial system tends to depend mainly on the authority of lineage elders derived from their seniority in the group.¹⁰²

With regards to the commencement of legal proceedings in centralized societies, in Nigeria, once there is a breach of taboo for instance, the community taskforce apprehends the offender who will be brought before the elders or chiefs for necessary informal trial for the breach of environmental rules. After listening to the parties and witnesses, the elders or chiefs would render their verdict. If convicted, necessary penalty is imposed. This may involve payment of certain money or materials for sacrifice. Some other offences such as sacrilege in against special shrine, bush or sacred forest may even attract death penalty. In other cases, depending on the community or society, the offender may be ostracized or expelled from the society. If the guilty party refuses to comply with the verdict by not paying fine either of money or materials as the case may be, the chief and appointed officials or community taskforce in centralized societies have clear responsibilities to enforce the judgement.¹⁰³ Less centralized methods of enforcement are found in societies without chiefs. For example, in Igbo land (the Ibos), recalcitrant environmental offenders may be brought to book by an ad hoc group of young men authorized by the elders for this purpose. The Yoruba of Nigeria have a system of self-help whereby the king or chief may order that a siege be made around the house of the offender and force him out of the community in enforcement of the community verdict.

Also, in some other communities, pressure to comply with a judgement can come from family members, friends and other members of the community concerned which is often motivated by the community leaders. The breach of environmental tradition could be sanctioned by the head of the family, clan, or by members of an age-group. Erring members who breach land protection or environmental rules could be disciplined by the head of the larger family, who might order a fine of items like local gin, goats, etc., or a sacrifice. Sometimes, the offender's wife would be coerced by members of her original larger family to press her husband to comply with community verdict. Other members of the larger family might also coerce an offender into paying his fines, to avoid repercussions on their family.

Again, disobedience could lead to the offender's family being ostracized by the larger family, or by the entire community. This was often the worst kind of punishment in many Nigerian societies. The implication of such penalty is that the community would not buy from him or sell to him or members of his immediate family. If the offender was still unrepentant, he could either be banished from the community or he would leave of his own accord because he would not be able to bear the shame. Such exit usually must be for a distant community as the neighbouring communities would probably know that the newcomer was an offender from another community. He would then be seen either as bringing ill-luck or as posing a danger to the new community since he might be disobedient and cause an upset in the new community.¹⁰⁴

⁹⁹ Kuruk P., op cit.

¹⁰⁰ Ibid.

¹⁰¹ See M. Fortes and E. E. Pritchard, *African Political Systems*, p. 5, 1940. Culled from Kuruk P. Op cit. page 16.

¹⁰² Ibid.

¹⁰³ See generally, Elias T.O., *The Nature of African Customary Law*, Manchester University Press, 1956, page 217 culled from Kuruk P. op cit.

¹⁰⁴ Kuruk P. Op cit. Page 17.

CONCLUSION

This paper has examined the customary laws and practices in Nigeria with particular reference to environmental management and protection. Essentially, the paper considered the meaning of the concept and the characteristics of customary laws. It also discussed environment as a concept and the challenges facing the preservation of the environment.

Today, no doubt, the whole world is concerned about environmental protection and sustainability given the importance of the environment to man and his continuous existence. In achieving the desired environmental protection, modern society has adopted both local and international environmental legislations and principles aimed at keeping the sanctity of the environment. It is unarguable that from the Nigerian experience, most of these modern laws have not been able to take us to the desired haven where environmental protection is guaranteed for sustainable development as we daily experience more and more complex environmental crises in Nigeria and even globally.

It is on this note that a revisit of the customary laws and practices relevant to environmental protection may be necessary, especially in society like Nigeria which is prominent in Africa. It appears that from all indications, people respect their customs, especially taboos and religion than the borrowed culture known as common law system. Although, it has been argued that customary law and practices differ from one community to the other, yet it is not out of order to streamline across tribes and communities the customs and practices that are specifically related to environmental protection for codification into a body of legislation to regulate, protect and govern our environment which is the common heritage for both present and future generation. This may be done and be made operative in addition to whatever western system of law that is in operation in our modern society. This will further enhance environmental safety or security in Nigeria.