



A review of forestry laws in Nigeria: How effective

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Abstract

This study examined the effectiveness of forestry laws in protecting and conserving the forest estate in Nigeria. This is juxtaposed with the need for attaining sustainable forest management, economic development as well as social equity. Doctrinal methodology was utilized in reviewing the various laws and policies in this regard. Findings show that rather than strengthen the effective implementation of these laws, it is discovered that policies are used and the Forestry Act is outdated and needs to be amended by the provision of clear legal frameworks, robust institutional capacity and the like. The study also examined challenges like regulatory gaps, lack of funds as well as weak enforcement mechanisms that hinder the effective implementations of these laws. This work proffered recommendations such as updating and unifying forestry laws that would ensure preservation and conservation of forests in Nigeria.

Keywords: Forest, preservation, deforestation, challenges, law

Introduction

Nigeria forests are facing a severe crisis and are characterized by rapid deforestation and degradation. The country since 1897 has one of the highest rates of deforestation globally with estimates indicating that forest cover has declined from approximately 60% of land mass to about 30% today ^[1]. Nigeria's forests are fast disappearing and urgent steps are needed to protect their benefits to the economy and environment and unless something drastic is done to conserve and preserve the forests, it would affect climate change in Nigeria and affect the environment negatively thereby harming the health of humans.

Reports show that trees are constantly under the threat of extinction as a result of man's wanton activities for logging, cooking, building, clearing and construction ^[2]. These activities have made forests and special trees to be under serious threats as a result of uncontrolled exploitation by men such that it was recorded in 1955, that Nigeria lost almost 95% of its rain forests to indiscriminate tree felling and logging ^[3]. This unfortunate trend still continues today. Efforts have been made by government which led to the enactment of a Forestry Law in 1938 to protect the forests in Nigeria for the enhancement of the balance of the ecosystem ^[4].

Forestry laws were regulations that govern activities in forested areas primarily to focus on forest management and timber harvesting. These laws aim to protect forest resources and ensure sustainable practices while balancing economic development and environmental conservation. However, how effective this has been, is another story as policies that have been put in place appears not to be very effective. It therefore becomes imperative to examine the causes and effects of this unwholesome practice.

According to United Nations, Nigeria has the highest rate of deforestation in the world losing 3.7% of its forest every year. Research shows that Africa has the largest mangrove but only 6% is protected ^[5]. The Niger Delta in Nigeria has over 3,100 km of coastline and an estimated 1 million hectares of mangrove forest ^[6]. This makes it the largest mangrove system in Africa ^[7]. It is reported that from 2001

to 2022, Nigeria lost 1.25mha of tree cover and experienced a deforestation rate of 163 kha/year, the 15th fastest rate among nations ^[8]. This is attributed to the fact that our policies are ineffective and in dire need of urgent reforms.

There are currently no new legislations in Nigeria in respect of forestry laws. The existing laws include the various state Forestry laws which are largely outdated and ineffective. Comprehensive legislative reforms are still necessary to enhance enforcement and address current challenges in forest management thus the need for updated laws and improved enforcement mechanisms which are critical to effectively tackling deforestation in Nigeria.

This study is broken into six sections; section 1 discussed the historical analysis of forestry laws, section 2 examined the extant legislative frameworks for the protection of forests, section 3 looks at challenges hindering an effective implementation of our laws, section 4 talks about the need for a legislative framework while section 5 is about proffering recommendations and section 6 concludes this section.

Historical Analysis of Forestry Laws

Forest development in Nigeria started with reservation of forest lands in order to manage, maintain forest reserves and provide supply of timber ^[9]. The legal framework for forestry in Nigeria evolved over time with laws dating back to 1890 when the Forestry Ordinance was promulgated for constituting forest reserves ^[10]. The first forest reserve was created in 1901 with the promulgation of the Forestry Ordinance and creation of a forestry department which was ran by conservators of forests ^[11].

In 1956, the Forestry Act was promulgated by the colonial government and laid the ground work by making provisions for the preservation of forests and the setting up of forests. It established protected areas and outlined penalties for violations ^[12]. It was enacted during the colonial era and was aimed at regulating the expectation of forest resources, establishing forest reserves and the promotion of sustainable forestry practices.

The key provisions of the ordinance were in the area of establishment of forest reserves which allowed government designate specific areas as protected forest which was crucial for conserving biodiversity and preventing over exploitation of forest reserves, regulation of forest activities, licensing system, penalties for violations and protection measures. Although the Ordinance was initially effective in controlling deforestation, challenges however emerged over time due to weak enforcement mechanisms, corruption, and insufficient resources. As Nigeria approached independence, these issues worsened. Following independence in 1960, attention shifted to developing forest plantations and sustainable management practices ^[13].

In 1970, the Federal Department of Forestry was created and answerable to the Federal Government on forestry matters ^[14]. The year 1985, saw the enactment of Forestry Act of 1985 which was thereafter repealed with no subsequent laws put in place rather other laws that were not directly targeted at forests but had provisions touching on forest related matters were enacted like the land use Act, Minerals Act etc ^[15]. Currently, what is relied on is the National Forest Policy ^[16]. In 1988, the National Forest Policy was made to provide goals, targets and implementation strategies for the management, development, expanded cover of forests, their use and their products. The Policy however had challenges with illegal logging and bureaucratic inefficiencies.

In 2006, the National Forest Policy was redrawn with the objective of providing for the conservation of forestry, wildlife and protected areas however it met with a lot of criticisms as it was considered to be weak majorly because it could not be applied without legal backing ^[17].

It has been noted that these laws and policies have become moribund and as a result are not effective. A major problem show that the lack of an up to date legislation to properly manage the forest environment in Nigeria has accounted for the rapid decline in forest conservation and this is what this paper shall also examine the causes and effects of lack of forests conservation and its management. An attempt will be made to examine the extant laws with a view to proffering recommendations that would preserve the already declining forest environment.

Importance of Forestry Conservation

The importance of forests cannot be underscored as they help in enhancing the biodiversity and purification of the environment. Forests play crucial role to achieving the United Nations Sustainable Development Goals ^[18]. Other importance roles that forests play include the following:

- a. Forests serve as home for wild animals like antelopes, monkeys, elephants, snakes, wild plants in their various species and genes and provide shelter for these species of flora and fauna just as houses, villages and the like provide shelter for human beings ^[19].
- b. It beautifies the environment and also serves as a centre for tourist attraction and this adds to the economic development of the country
- c. They help to provide medicinal herbs for traditional and conventional medicine
- d. The wood of the trees provide planks for making furniture, pulp for making paper, match sticks, etc.
- e. Forest trees help to prevent soil erosion and also serve as wind breaks which prevent wind erosion and desert encroachment to the environment

- f. Forest helps in the purification of the air by removing carbon-oxide and adding oxygen thus improving the atmospheric quality of the environment.
- g. Forests provide physical, biological and chemical benefits which include conservation of soil, conserve biodiversity and store carbon which mitigate climate change

The above benefits are among several other benefits and this cannot be overemphasized as the loss of forests has severe consequences and this should not be allowed to happen.

Causes of Deforestation

According to the United Nations, Nigeria has the highest rate of deforestation in the world losing 3.7% of its forests every year ^[20]. Research shows that it is home to Africa's largest mangrove but only 6% of these forest are protected ^[21]. It is reported that among other sectors like the energy sectors, deforestation and land use change are among the greatest contributors to Nigeria's greenhouse gas (GHG) emissions ^[22]. It becomes pertinent at this point to discuss the causes of deforestation of Nigeria's forests.

Logging whether legal or illegal is a major cause of deforestation and this has led to excessive depletion of forests. Despite the various laws and policies in place, the felling of trees in forests have not abated and this has led to the loss of biodiversity which impacts negatively on loss of plant and animal species. This calls for the need for stringent moves to be taken to curb incessant logging ^[23].

Another cause is bush burning of forest areas for purposes of agricultural use where there is no control and as a result, protected forests are encroached by fires that destroy the trees. Wildlife is also affected by this practice and can lead to possible extinction of these wildlife. Most times the fire gets out of control destroying large area of vegetation thus leading to soil erosion and desertification.

The impact of these indiscriminate and brazen activities have led to the loss of diversity which has also affected plants and animal species.

Another major impact is soil erosion where deforestation has impacted on our environment. When land is deforested, the soil anchorage provided by trees and other plants is lost and the soil is eroded by agents of denudation ^[24].

Poverty in many communities have led members living in the communities to fall back to wood fuel for cooking and utilizing them as a means of livelihood where trees are felled and sold for economic empowerment.

Examination of Legislative framework for the Protection of Forests in Nigeria.

An examination of legislations put in place for the conservation of forests shall be examined to find out how effective these laws have been effective.

1. 1999 Constitution of the Federal Republic of Nigeria ^[25]

Section 20 of the 1999 Constitution provides for environmental objectives and state that "the State shall protect and improve the environment and safeguard the water, air and land, forest and wildlife of Nigeria". This provision however is under Chapter 2 which is under the Fundamental and Objective Principles of State Policy. Section 17(1)(d) which provides for social objectives states that the exploitation of human or natural resources in any form whatsoever for reasons, other than the good of the

community, shall be prevented. These policies are not justiciable by virtue of section 6(6) (c) in the sense that it does not provide for rights that can be enforced by Nigerian citizens. The reason given is that the issue of non-justiciability is to avoid the barrage of multiplicity of suits that would prevent government from carrying out its daily administrative work. The Constitution grants local government and States joint jurisdiction over natural resource development.

2. Forestry Ordinance 1956 ^[26]

The Ordinance established the framework for forest management as well as provided for the constitution of forest reserves allowing the government to classify and designate specific areas as government protected forests and communal or forest areas. This was crucial for conserving biodiversity and preventing over-exploitation of forest resources. The Ordinance was very elaborate and covered all areas of forest and forest produce. The law had provisions which include the prohibition of or regulation of forest produce of all kinds, prohibition of the possession/collection of forest produce, doing anything that may cause injury to any forest produce or forest growth or forest property etc.

During the colonial era, the Ordinance provided for proper management of forests as severe penalties were imposed for breaches. These penalties ranged from one hundred pounds to imprisonment ranging from two years to six months. These penalties were punitive at that period to deter people from violating the Ordinance as the fine of one hundred pounds was indeed a huge sum of money to pay at that time ^[27].

3. The repealed Forestry Act 1985

This was an important legislation and was targeted at regulating forestry activities, promote sustainable practices and protect wildlife and habitats. The Act established a framework for the management and conservation of forest resources. It addressed issues of illegal logging and environmental impact assessments. The repeal of this Act was influenced by several critical factors which included among other issues, the issue of ineffective enforcement of regulations, widespread deforestation and the need for modernized legislation that could better address contemporary environmental challenges. The rise of illegal logging and inadequate penalties highlighted the need for a more robust legal framework to protecting Nigeria's forest resources and promote conservation efforts ^[28]. The repeal of the Act has left a huge gap in forestry legislation.

4. The Land Use Act 1978 ^[29]

The Land Use Act was enacted in 1978 with the objective of centralizing land ownership and management across the country by vesting all land within a state in the hands of the state governor who in turn holds it in trust for the people and individuals. This was done to curb the incidents of unequal access to land and land speculation under previous regimes ^[30]. It was done in the public interest of all Nigerians to be able to and enjoy land as well as the natural fruits that grow on it ^[31]. Provisions is made for proper allocation of land for agricultural purposes and this includes forestry.

The Land Use Act enables the Government to bring under control the use to which land can be put in all parts of the

country however this appears not to be effective as people fall trees at will without any restriction and this has led to severe deforestation. It is noted that there has been severe encroachment into forest reserves as farmers migrate in search of arable land and this has led to tensions between government and farmers as where evictions are made by government, resistance is met, leading to violent conflict ^[32]. The Act also has not been able to effectively facilitate sustainable forest management practices and has failed to address critical ecological functions, leading to degradation and over-exploitation of forest resources. Another factor is the inability of government officials who are to enforce the laws most times, compromise their positions ^[33].

5. National Parks Decree 1991

The Act was promulgated to provide a protective sanctuary for wildlife species as well as to promote and preserve the beauty and conservation of the country's natural vegetation. Six national parks were established under the Act. It restricts hunting, fishing and destruction of trees, setting fires in and around established parks and this has been subsumed in the National Parks Act 1999 which created two additional parks. In order to make the service effective, the Federal government granted paramilitary status to the National Park Service to bolster the services actions against poaching and trespass ^[34].

6. The National Forest Policy 2006

The policy calls for robust legal backing to enforce regulations effectively addressing illegal logging and other forms of exploitation. It also put in place strategies in terms of various aspects like forest management. It aimed to address issues such as deforestation, biodiversity loss and the economic importance of forests among other issues.

The Policy was considered weak because it could not be applied without legal backing. This reinforces the need for political will on the part of government to enact a legislation on Protection and conservation of forests ^[35]. The policy was revised in 2020.

7. The National Forest Policy 2020

The process of reviewing the 2006 National Forest Policy was initiated in 2017 and completed with the adoption and approval by the National Council on Environment in November, 2019 ^[36]. The then Minister of State for Environment stated that the revised 2020 National Forest Policy sets out the strategies for growing the sector and addressing emerging environmental issues like climate change resulting from increased population with its attendant pressure on the forests and its resources. The policy has among its main objectives to promote sustainable management through the promotion of sustainable management of forest ecosystems to enhance and ensure environmental sustainability and socio-economic growth, community participation by encouraging stakeholder involvement, address poverty by improving livelihoods through forest related activities and services, biodiversity conservation to protect the biodiversity and forest resources as well as fulfilling global commitments related to climate change and sustainable ^[37]. The National Forest Policy 2020 is also anchored on 30 elements spread across the seven globally accepted elements for sustainable forest management and increasing forest cover from 6% to 25% by 2030 ^[38].

It is noted that despite attempts made at reforestation, there are however challenges in the area of enforcement and coordination among the various government levels as deforestation has posed a consistent threat to biodiversity particularly with the high cost of gas and kerosene which is now out of the reach of rural dwellers^[39]. One of the key use of Nigeria's key issue is for fuel, with about 70% of Nigerian households and 90% of the country's rural population using fuel wood for their energy needs as there are no alternatives like the presence of renewable energy that would take the pressure from the forests^[40].

8. Edo State Forestry Law

The Forestry law of Edo state of 1968 has been updated with the establishment of the Edo State Forestry Commission which was inaugurated on June 7, 2023 under former Governor Obaseki government. The Commission's mandate is to end deforestation and restore degraded forests across the state, aligning with the Edo State Forest Restoration and Plantation Strategy^[41]. The new legislation focuses on sustainable forest management, conservation and the regulation of forest and wildlife resources. It also prohibits farming in reserved forests without approval and requires companies to restore degraded areas thus recognizing the polluter pays principle.

The Law encourages partnerships with stakeholders to achieve the goals of achieving a ten year plan to restore degraded forests and promote conservation, sustainable management and prohibition of unauthorized activities in Edo State^[42]. The new forestry law aims to impose stiffer penalties for illegal loggers and this goes beyond impounding logs and includes prosecution and conviction for offenders^[43]. This will act as a deterrence to curtailing illegal activities that are carried out in our forests and is aimed at protecting it also.

Challenges that hinder protection and Conservation of Forests

There are several challenges that have hindered effective protection of forests in Nigeria and they include:

- a. A lot of the laws relating to forests have been not addressed the issue of illegal logging, land conversion and other forest crimes squarely as reliance is still on outdated laws which require amendments to meet up with the present situation and this gap has opened the way for uninhibited increase in the wanton exploitation of forests in Nigeria.
- b. There is the lack of limited enforcement capacity in terms of inadequate funding, corruption among enforcement agencies as well as lack of training for officers who are in charge of protecting the forests.
- c. Non-Inclusion of the public- members of the public particularly communities around forest reserves are often excluded from participating in legislative processes and this often lead to resistance and continued illegal activities for survival^[44].
- d. Conversion of forest land to other uses- the attitude of administrative bodies in charge of developmental programmes towards forests in Nigeria has not helped in the protection of forests as it is common to find large area of forests cleared for projects without consideration of the environmental consequences it would have on forests^[45].

The Need for a Legal Framework

Law is defined as the regime that orders human activities and relations throughout systematic application of the force of politically organized society or through social pressure backed by force in such a society^[46]. Law is the bedrock of society and is an essential framework upon which a society or a system within a society rests^[47]. Law plays several roles in society and acts as a modulator in ensuring compliance with laid down rules and regulation. Amokaye states that law generally shapes social norms and serves as a tool for social mobilization, social engineering and social justice^[48].

Adaramola sees law as a normative psychological instrument of social motivation, social control and social change, produced from practical social necessity by which a politically organized society influences human conduct within its jurisdiction^[49]. He further posits that a rule of law has attached to it, a specified consequence which makes it mandatory for the addressee to comply or risk the physical force of society being deployed against him. Law has the binding force to ensure its laws are obeyed.

The importance of law cannot be over emphasised as it can be utilized in pursuing the need for conservation and protection of forests particularly where there is a deficit of legislation in the forestry area in Nigeria.

Presently in Nigeria, there is no National Forestry Act that provides for the protection of forests rather policies are being relied upon which are most often not obeyed.

An examination has been made of these policies and findings show that despite these policies, there is need for comprehensive reforms in the sense of putting in place a legal framework in terms of a forestry law that would help to strengthen governance and align the law with modern realities. Policies at best do not have legal backing and cannot drive enforcement effectively. For policies to function effectively, laws are the mediums through which these policies can be fully implemented. Law however will further help to put proper structures that will enhance and ensure proper surveillance and provide sanctions for would be offenders by utilizing technology like remote sensors, drones and satellite imagery.

Policies outlines what a government ministry or its agencies hopes to achieve and the methods and principles it will use to achieve them^[50]. It does not have the force that law has nor might sanctions backing it and this be the reason why there is no effective enforcement of conserving and protecting forests.

Omorogbe recognizes the relationship between Law and policy as she states that policy and law are essential frameworks upon which a society or a system within a society rests as law is fundamental to the success or failure of any policy^[51]. This further buttresses the urgent need for legislation.

Recommendations

To be able to prevent forests from becoming extinct, the following are recommended

1. Urgent steps must be taken to put a National forestry Act in place that would be comprehensive and incorporate existing state forestry laws for the purpose of unifying the laws to cater for modern day realities in terms of forest management and conservation.
2. There is the need to strengthen enforcement mechanisms by creating an effective enforcement

- mechanism like a monitoring taskforce to monitor forests to prevent wanton destruction of the forests
3. Amend and update existing laws like the Land Use Act to ensure adequate and effective forestry protection and to make forest protection a justiciable right. This will ensure the protection of forests in Nigeria.
 4. Punitive measures be put in place and offenders who violate the law must be punished appropriately.
 5. The Act should provide for proper staffing in terms of hiring adequate trained forest professionals and well equipped guards who are adequately trained to safeguard the forests.
 6. Enlightenment programmes be carried to communities and the general public on the negative impacts of forest mismanagement
 7. Communities should be stakeholders in forest management and be involved in the promotion of sustainable practices with regards to forests around them.

Conclusion

Forests in Nigeria play a vital role in the sustenance of the ecological balance, economy and livelihood of citizens however if they are not protected, they stand in danger of going into extinction as seen from the discussion in this study. It is imperative that urgent steps be taken to ensure this does not take place by carrying out sustainable practices like reforestation and enlightenment campaigns to prevent it. In conclusion, it is imperative that our forestry laws need to be amended and unified into a National forestry Act as canvassed earlier to prevent the extinction of forests in Nigeria. States like Edo state has taken a step in the right direction and the Federal government can follow suit and do so swiftly to ensure that forests in Nigeria are preserved.

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