

A DISCOURSE ON THE ATTRIBUTES OF WILDLIFE LAW IN NIGERIA

by

Nelson Uwoh Sobere*

ABSTRACT

There has been a lot of legal framework for the protection of the country's abundant biodiversity of both domestic and international importance. These laws were developed over time and will now look different from the early set of laws that were developed when wildlife was seen simply as a resource to be exploited or when a few species or places were initially granted legal protection. The conservation measures adopted in the early laws have extended and now there is a further emphasis on the ecosystem approach to conservation of biodiversity in all its forms and in all areas, requiring a further shift in approach. Notwithstanding, the laws are still not proving adequate to halt the loss of biodiversity in the country, but their development, and continuing weakness, help to illustrate what is needed if wildlife laws are to support biodiversity in a much more better way. To achieve the desired goals of conserving the nation's wildlife, the laws must be pervasive, positive, participative, precautionary and proactive if the future health of the country's natural environment is to be secured for the benefit of both present and future generations. Hence, the purpose of this paper is to examine the attributes that laws supporting the conservation of the country's biodiversity and sustainable use should possess since the conservation of nature has been acknowledged as a desirable objective deserving legislative support.

1. INTRODUCTION

Human beings depend on nature for food, water, energy, clothing, shelter, medicine and many more. They also rely on the millions of animals and plants species to keep the system that provides those needs in running order. Yet despite this fact, we are destroying the natural world in an unprecedented manner¹. Human attitudes towards nature have changed greatly in the last 60 years. And to keep the system running, a set of law known as wildlife laws are put in place that contribute effectively to conserving the country's abundant biodiversity² of both national and international importance. These laws were developed over a period of time and have evolved from the earlier laws that were developed when wildlife was viewed simply as a resource to be exploited or when a few species or places were granted legal protection³.

* Nelson Uwoh Sobere, LL.M, (Ph.D in-view), Lecturer Department of Private Law, Faculty of Law, University of Port Harcourt, Nigeria. Email- uwoh.nelson@uniport.edu.ng

¹See the statement of the Nigerian Conservation Foundation which is the premier Non-Governmental Organization dedicated to nature conservation and sustainable development established in 1980.

² This goal was agreed by the 193 parties to the Convention on Biological diversity, June 5, 1992, 1760 U.N.T.S.79, art. 1.

³For instance in Nigeria, the first place of known legal protection was the Kainji Lake National Park established by the amalgamation of two former game reserves-Borgu and Zugurma in 1976 and the legal instrument setting up the Park was promulgated in 1979 by Decree 46 of 1979 and now repealed by the National Park Service Act of 2004 that has established more Parks. The then Kainji Lake National Park as the premier Park is the home for a large pool of fauna resources among which are: Lion (*Panther Leo*), Hunting

The laws supporting biodiversity conservation in Nigeria have changed since the conservation of nature first came to be accepted as a desirable objective deserving legislative support. The early conservation measures simply prohibited specific forms of direct harm to a few selected species. Then the protective measures were extended in their range and a few dimension added by the recognition of the need to look after habitat as well to prevent direct harm. In turn, the habitat measures too have been extended, becoming stronger and responding to the appreciation that maintaining habitat in good health demands active conservation measures rather than just passive prevention of harmful activities. There is further emphasis now on the ecosystem approach to conservation⁴ and on biodiversity in all its forms⁵ and in all areas, requiring a further shift in approach.

Notwithstanding, such laws protecting biodiversity are still not adequate to halt the loss of biodiversity in Nigeria, but their developments, and continuing weaknesses, help to illustrate what is needed if wildlife laws are to support biodiversity preservation in a much more better way in the country. The law must be pervasive in its efforts to conserve biodiversity rather than dealing with designated sites or species in isolation from the wider environment. It must be positive, actively supporting biodiversity rather than just seeking to prevent particular harm. It must give conservation adequate priority in the face of competing interests. It must be participative, engaging a wide range of parties rather than being a closed matter for dedicated agencies and institutional bodies. Finally, in view of the dynamic nature of our environment, and our understanding of it, it must be precautionary and proactive if the future health of the natural environment is to be secured. Only laws which displayed these attributes can meet the challenges of combating the many threats to biodiversity in Nigeria. Significantly, this work will discuss in nutshell, the attributes that laws supporting biodiversity conservation in Nigeria should possess.

1.1. It must be Pervasive

Laws seeking to conserve biodiversity must not be limited to particular sites,⁶ species or activities but must be pervasive. This is what lies at the core of the ecosystem approach that has been accepted by the parties to the Convention on Biological Diversity as the basis for making progress towards that Convention's goals and is set out in Decision V/6 of the Conference of the Parties (COP) held in

dogs (*lycaon pictus*), Hippopotamus (*Happotamus amphibious*), Buffalos (*syncerus cafer*) etc and where given legal protection because of their public appeal. Available at nigeriaparkservice.org/?=148[visited 23/9/2016].

⁴ Convention on Biological Diversity COP 5 (2000); See also Decisions VII/II from COP 7 (2004).

⁵The definition of biodiversity in art. 2 of the Convention on Biological Diversity is widely accepted: "Biological diversity means the variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems"

⁶Although protection of these remains important but to achieve a comprehensive conservation, attention should also be given to species outside the designated sites: See Art. 7 of Convention on Biological Diversity

Nairobi in 2000⁷. Within the ecosystem approach the laws are not based on particular species and it provides protection against the direct threats that these species face. The ecosystem approach calls for the law to be pervasive in several ways:

In the first place, it means that effort must not only be concentrated on just a handful of high profile species, but must consider the whole range of elements that make up the complex web of biodiversity. Although legal protection often begins with large and obvious species which attract public attention, a biodiversity law must extend to those that are hidden or do not have immediate public appeal. This is because species are dependent on each other for survival and the existence of one endures to the benefit of the other and *vice-versa*. This growing concern has been a feature of the development of the law in Nigeria. After the early colonial legislation on wildlife wherein attention was given to the protection of wild animals such as Chimpanzee, Gorilla, Giraffe, Water chevrotain etc.⁸, it was only with the Endangered Species (Control of International Trade and Traffic) Act 1985⁹ that protection was extended to other species less likely to have a place in the public's affections (all parrots, kites, hawks, reptiles, Wild cat, All exotic wild animals, African palm squirrel etc)¹⁰. This law greatly extended protection to some animal species that hitherto has no public appealing and it is hope that subsequent amendment to its Schedules will capture more of these species. The species selected must be chosen on the basis of biodiversity needs, not public popularity¹¹. For instance, in Scotland, after the early legislation on birds and seals, protection has now been extended to other species less likely to have a public acceptance such as toad, lizard, butterfly¹² etc. And more protection has been conferred on increasing number of cold-blooded creatures and invertebrates'.¹³

It is instructive to state here that despite the fact that the Endangered Species Act now extended recognition to other less appealing animal species as an improvement on the earlier biodiversity legislations; the Act which is one of the key enactments on biodiversity conservation in Nigeria is not pervasive in its entirety. The Act only gave protection to animal species to the exclusion of the plant species. It has been proved that major drugs to fight serious illness such as cancer, heart diseases, anti-HIV vaccine etc. are derived from wild plant species¹⁴.

⁷See also Decisions VII/11 from COP7 of the Convention on Biological Diversity, 2004.

⁸See the schedule to the Wild Animals Preservation Law, Cap 133, Vol. V11, The Laws of Eastern Nigeria, 1963.

⁹Now the Endangered Species (Control of International Trade and Traffic) Act, LFN 2004.

¹⁰See the Schedules to the Endangered Species (Control of International Trade and Traffic) Act 1985.

¹¹See Article 7 (b) of the Convention to Biological Diversity, 1992.

¹²See the Conservation of Wild Creatures and Wild Plants Act, 1975.

¹³See Wildlife and Countryside Act, 1981. See also C.T. Reid, "Towards a Biodiversity Law: The Changing Nature of Wildlife Law in Scotland", Vol. 15 (3-4)(2012) *Journal of International Wildlife Law and Policy*, p. 6

¹⁴E.O. Oladipo, "The Convention on Biological Diversity and Sustainable Human Development' Challenges and Opportunities for African" in I.A. Ayua and O. Ajai (ed.) *Implementing the Biodiversity Convention:*

Nigeria is known as biodiversity hotspot and if the plant species are not given the deserved protection under the law, their rate of exploitation will be second to none and the economic value of the affected plants will not be appreciated in any way. It will also lead to loss of biotechnology on the extinct plants¹⁵. It is clear that the Act though heralded as a significant statutory land mark in giving legislative effect to the government wildlife conservation policy, but it is not pervasive in effectively prohibiting and regulating specific activities relating to plants species in the country¹⁶.

Secondly, the law must be pervasive through paying attention to the state of the environment as a whole, rather than being too narrowly concentrated on designated sites and habitats alone. If the concern of the law is squarely on specific designated sites this risks establishing these as isolated islands in an otherwise hostile environment, not only vulnerable to local disaster but cut off from the “cross-fertilization” (literal and metaphoric) necessary to maintain long-term health and resilience¹⁷. The need to care for biodiversity outside the boundaries of designated areas is increasingly being recognized as fundamental to successful conservation.¹⁸ The point is expressly made in the Scotland Habitats and Species Directive which in addition to its measures on designated sites calls on States to use land-use planning and development policies “to encourage the management of features of the landscape which are of major importance for wild fauna and flora”,¹⁹ especially features which act as wildlife corridors or stepping-stones “essential for the migration, dispersal and genetic exchange of wild species”²⁰.

In the case of Nigeria, despite the biodiversity characteristics of the Niger Delta area of Nigeria, it has been claimed that the area is unprotected. The IUCN in an assessment of the coastal regions of eleven West African countries in 1992, ranked the Niger Delta as one of the highest conservation priorities in the entire region, and stated that it was virtually unprotected. The environment of the Niger Delta region which is known for having varieties of animal and plant species for which the country is known for was largely not protected and the species risk extinction at an imaginable rate. A typical example is the devastating state of

Nigeria and Africa Perspectives, (Lagos, Nigeria Institute of Advanced Legal Studies, University of Lagos, 1st ed. 1997) pp.7-8.

¹⁵N.U.Sobere, Biodiversity Conservation: “The Challenges of Nigeria Endangered Species (control of International Trade and Traffic) Act”, Vol. 12, Nos. 3-4, (2015) *Journal of Environmental and Planning Law Review*, pp. 1146-1147.

¹⁶*Ibid*, pp.1148-1151. See generally s. 5(1) (a) and (b) of the Act.

¹⁷C. T. Reid, (n.13) p. 6

¹⁸For instance, Art. 8 of the Convention on Biological Diversity provides for conservation outside the designated sites.

¹⁹Habitats and Species Directive, Art. 10, implemented by Conservation (Natural Habitats) Regulations 1994.

²⁰The Directives refers to features which serve this purpose “by virtue of their linear and continuous structure (such as rivers with their banks or the traditional systems of field boundaries) or their function as stepping stones (such as ponds or small woods)”.

Ogoni environment which was reaffirmed by the Ogoni UNEP Report²¹. The environment and such others of the Niger delta region have been under serious devastation for years with the accompanying losses of animal and plant species. It was only just in 2016 when a formal launching of the clean-up of Ogoni environment was done by the present administration of President Muhammadu Buhari on the 2nd June, 2016. The Ogoni environment was not the only one in the Niger delta area that has been neglected by the successive governments in Nigeria. As early as 1980,²² the people of Ojobo Town (a Niger Delta Community) protested to a visiting National Emergency Relief Team with a placard which partly read: our lives are threatened by oil spillage²³.

For the Wildlife laws to achieve its cardinal goals of sustaining the country's abundant wildlife for the interest of both present and futures generations, the environment in which the species inhabit must be given due attention regarding its protection from every forms of human destructive activities. Therefore, the Wildlife laws must take into account the urgent need to protect the environment for the purposes of sustaining the species outside designated sites. For instance, the National Park Service Act makes provisions for management plan of the National Parks only and did not consider the species outside the Parks for management²⁴. As it was noted by the United Nations General Assembly that there was "An urgent need for intensified action at national and international level to limit and where possible, eliminate the impairment of the human environment"²⁵.

Thirdly, the law must be pervasive in that it supports conservation not only through measures designed specifically for that purpose, but also through provisions in other areas of law which could have an impact on biodiversity conservation.²⁶ Thus, the fact that environmental impact assessments, which require consideration of the effects of proposed activities on the human environment (fauna and flora), are required for an increasing range of activities

²¹See the UNEP Environmental Assessment of Ogoniland, (2011), pp 8-10, 154-156

²² Records show that 1980 was one of the worst years of oil spillage in the Niger Delta. See A A Ikein, *The impact of Oil on a Developing Country: The case of Nigeria*, Praeger New York, 1990, p.41.

²³Ministry of Information, Hazards of Oil Exploration in Bendel State (Benin City, Nigeria, 1981:14) The placard said more'... Oil has killed our fish. Our creeks are polluted. No improvement, no water and lack of electricity: The Ogoni people have also reeled out tales of woes as a result of oil operations in their area. In the worlds of a local spokesman: The Ogoni case is that of genocide being committed in the dying years of the twentieth century by multinational oil companies under the supervision of the Government of the Federal Republic of Nigeria. The once beautiful Ogoni Countryside is no more a source of fresh air and green vegetation. All one sees and feels around is death. Death is everywhere in Ogoni. Ogoni language are dying; Ogoni culture is dying; Ogoni people, Ogoni animals, Ogoni fishes are dying because of over 33 years of hazardous environmental pollution and resulting food scarcity (G.B. Leton)- Quoted in Naanen, B. "Oil-Producing Minorities and the Restructuring of Nigerian Federalism: The Case of the Ogoni People, in *Journal of Commonwealth and Comparative Politics* 33, 1995, p. 66.

²⁴See Section 27 of the National Park Service Act, Cap.N65, LFN 2004.

²⁵See the UN General Assembly Resolution 2398 (XXIII), 1968.

²⁶See Art. 6(b) of the Convention on Biological Diversity

ensures that biodiversity is not ignored²⁷ in considering applications for permission for many activities. Even where the circumstances do not trigger an environmental assessment, it is recognized that biodiversity is a material consideration in deciding whether to grant planning permission,²⁸ and same is true in other contexts where permission may be necessary.²⁹ For instance, Urban and Regional Planning Act, Land Use Act, Town Planning law, Building law etc should have express provisions for biodiversity conservation. This is imperative because as the human population is increasing wetlands and such other areas known for species abundance are being destroyed as a result of urbanization. As it was observed by Peter Kareiva that:³⁰

*As a species we have lived in wild nature for hundreds of thousands of years, and now suddenly most of us live in cities-the ultimate escape from nature. If we do not learn to build, expand and design our cities with a respect for nature, we will have no nature left anywhere. 8% of vertebrate species have been labelled as 'endangered' due to the effects of rapid urban development. That number may continue to rise with new urban expansion and growth.*³¹

The increasing pervasiveness of concern for the conservation of nature is shown by the fact that anti-pollution laws also recognize the impact on biodiversity. For instance, the Petroleum Act and its Regulation authorizes measures designed to prevent environmental pollution that may give rise to any harm,³² and such terms are defined in a way which protects other species in addition to man; "harm includes "impairment of, interference with, the ecological systems of which any living organisms form part.

A final way in which the law must be pervasive is in ensuring that conservation is a concern for the society as whole, not just a few dedicated actors³³. Concern for wildlife must extend to those whose impact on biodiversity takes effect indirectly as well as those whose activities have an obvious "hands-on" contact with wildlife. The inclusion of biodiversity concerns in the ways noted above contributes to this goal, especially in relation to development and agriculture, as do innovations such as the obligation to prevent or repair damage to wildlife

²⁷ Biodiversity concerns can, of course, be overridden by other considerations and damaging projects can still be given approval, since the environmental assessment procedure is concerned only with the process by which a decision is reached not the final outcome, ensuring only that environmental concerns are taken into account, not that they are given any particular weight.

²⁸ For instance, although, there is no express mention of biodiversity under the Nigerian Urban and Regional Act, Cap. N138, LFN 2004, however section 39(7) provides that an application for land development would be rejected if such development would harm the environment..

²⁹ For examples, permission to build refineries, to construct pipelines, to search for oil.

³⁰ Peter Kareiva is the Chief Scientist at the Nature Conservancy and Co-author of the report.

³¹ Available at www.science-daily.com/.../visited 28 September, 2016]

³² Also other laws such the Hydrocarbon Act, Cap H5, LFN 204, requires refineries to maintain pollution prevention facilities.

³³ While governments are expected to take the lead, other stakeholders are just as important to ensure success in achieving biodiversity conservation and sustainable development. The need couldn't be more urgent and the time couldn't be more opportune, with our enhanced understanding of the challenges we face, to act now to safeguard our own survival and that of the future generations. Biodiversity is seen as a global commons and all hands not only the governments but other stakeholders must be on deck in ensuring its preservation not only for the benefit of the present generation but also of the future generations.

sites,³⁴ but there are further measures that more expressly require a wide range of public bodies to engage with conservation. Thus, for biodiversity conservation to manifest throughout, every law (particularly those touching on the environment) must expressly provide for biodiversity preservation.

1.2. It must be Positive

Effective conservation of biodiversity is not just about preventing direct harm but about taking positive action to maintain and enhance the quality of ecosystems and habitats. Especially in a country like Nigeria where the countryside has been affected by human influence for many years, the “natural” environment will not survive unless it is managed to a certain extent. The earlier laws on species protection attempted merely to stop the protected species being killed or taken³⁵, whilst habitat protection concentrated on discouraging damaging operations. Such measures remain integral parts of the law, but it is recognized that more than purely defensive measures are needed if wildlife is to thrive.³⁶

For instance, in Scotland, for each Site of Special Scientific Interests (SSSIs), a site management statement must be produced, providing guidance on how the site’s natural features can be conserved or enhanced³⁷. Positive action to maintain biodiversity and the valuable features of the land is now a fundamental element of the rural support mechanisms, representing a major change from the days when the emphasis of agricultural policy was purely on increased production and rural development policy focused only on economic returns. More generally the duty on public authorities to further the conservation of biodiversity shows an emphasis on more than just preventing harm occurring. The natural environment is dynamic and healthy biodiversity cannot be secured into the future simply by preventing harm. The more positive outlook needed to serve the goal of conserving biodiversity must now be reflected in the law.

Most of the Nigeria Wildlife laws did not take into account the habitat protection and this is critical to conserving the country’s abundant biodiversity. The Endangered Species Act which is one of the principal enactments for the preservation of the country wildlife fails to cover ‘habitat protection’³⁸ rather focuses on limited goal of protecting the listed species from some unauthorized methods of hunting and fishing³⁹. The Act did not cover the problem of habitat destruction by human activities, such as oil pollution, contrary to Article 8(d) of the Convention on Biological Diversity. Important habitats are destroyed both directly and indirectly by human activity and at the end, species are being lost at

³⁴See the Directive of the European Parliament and Council 2004/35 2004 O.J. (L. 143) 56 (EC), implemented by the Environmental Liability (Scotland) Regulations 2009, S.S.I. 2009/266.

³⁵ See the Wild Animals Preservation Law, Cap 133, Vol. V11, The Laws of Eastern Nigeria, 1963.

³⁶C. T. Reid, (n.13) pp. 202-227.

³⁷Nature Conservation (Scotland) Act 2004, s. 4.

³⁸N.U. Sobere, (n.15),pp. 1151-1153.

³⁹See s. 5(6) of the National Service Act, Laws of Federation of Nigeria, 2004.

an unprecedented rate and it must be accepted that the major cause of species extinction is habitat destruction by human activity⁴⁰. Globally in the 21st century, habitat loss is the primary cause of species extinction⁴¹.

In the whole of the Niger delta region which is the natural home of many species of national and international importance, there is only one designated park which covers the natural habitat of the species within the area which is Cross-River National Park.⁴² There has been proposed another Niger Delta Park to cover other areas of species hotspot within the region such as Andoni Game Reserve, Upper Orashi Forest Reserve, Taylor Creek Forest Reserve, Apoi Creek Forest Reserve etc.⁴³ for years without full implementation. Indeed, there is no political will on the part of the government of Nigeria to protect the biodiversity of the area. All that interest the government is the exploration of the huge resources of the area and forestall all forms of agitation that will prevent her from freely exploring the resources. This support the claim by the International Union for the Conservation of Nature and Natural Resources (IUCN) and the World Bank that the biodiversity of the Niger Delta area of Nigeria remain unprotected, despite the fact that the area is the richest part of the country in biodiversity, and contains species of both national and international importance⁴⁴.

1.3. It must be prioritized

For biodiversity laws to be effective, they must also be given suitable priority, carrying substantial weight in the inevitable conflicts with other interests. In the real world, a concern for nature must battle against a host of other considerations and conserving wildlife almost inevitably comes at a cost, either directly or in terms of lost opportunities to exploit resources, improve infrastructure, development, etc. It is one thing to establish that biodiversity concerns must be taken into account by public bodies and others, but another to ensure that such concerns are regarded as truly important and capable of overriding economic or social gains which may seem to meet more obvious public needs. There is also the question of how far the law should go to interfere with private rights and interests in the pursuit of conservation, an issue where the starting point is quite different in different parts of the world⁴⁵.

⁴⁰C. Dytham, "Habitat Destructions and Extinctions: Prediction from Metapopulation Model s" in M.J. Hutchings et al (eds.), *The Ecological Consequences of Environmental Heterogeneity* (Oxford, 2000), p. 315

⁴¹Millennium Ecosystem Assessment (2005) *Ecosystems and Human Wellbeing: The Biodiversity Synthesis* (Washington, World Resources Institute) 10.

⁴² See section 2 of the National Park Service Act, Cap. N65, LFN 2004.

⁴³ A. E. Akachuku, "Prospects and Constraints of Biodiversity Conservation in South-Eastern Nigeria", in I.A Ayua and O. Ajai, (ed) *Implementing the Biodiversity Convention: Nigerian and African Perspectives*, (Nigerian Institute of Advanced Legal Studies, University of Lagos, 1997), pp.146-147.

⁴⁴ K.S.A Ebeku, "Biodiversity Conservation in Nigeria: An Appraisal of the Legal Regime in Relation to the Niger Delta Area of the Country", Vol. 16, No.3 (2004) *Journal of Environmental Law*, p. 362.

⁴⁵ This issue is affected both by the legal and constitutional background that establishes the extent and strength of individuals' rights and by the factual background which dictates whether conservation effort is to be focused on state-owned land and state enterprises or on the land and activities of private individuals and companies.

Again there are many positive elements to note in Nigeria, with the balance in the law shifting clearly towards higher priority for conservation. The points mentioned in the discussion of the pervasiveness of conservation law show that concern for biodiversity is at least now recognized as having a place on the list of priorities, even though it may not often be near the highest point of the hierarchy. As one example, the Environmental Impact Assessment Act compels both individual and public bodies to conduct full environmental impact assessment for certain activities such as agriculture, infrastructure, industry, petroleum, airport, drainage and irrigation, land reclamation, fisheries, forestry, housing, industry, mining, ports, power generation and transmission, queries, railways, transportation and waste treatment and disposal⁴⁶ to ensure that any impairment these activities will cause on the environment are at the earliest point forestalled. In the same vein, the basic legal obligation imposed on the concerned institution under the biodiversity protection laws⁴⁷ is to ensure that the designated sites/areas are protected from any significant deterioration in their habitats or disturbance of the species that they host. It is the primary priority of the institution in charge to ensure that the protected sites and the species are protected from activities likely to cause their extinction⁴⁸.

However, in Nigeria, and in practice, there is always a conflict of priority of interest between the Government and the concerned institution in biodiversity protection particularly in the Niger delta region of the country⁴⁹. Being that crude oil is the main economic stay of the country, political and administrative measures seem to ensure that exploration and production activities are screened from hostile public intervention⁵⁰. The Niger Delta is the richest part of Nigeria in terms of natural resources. The area has large oil and gas deposit, as well as abundant wildlife. It is recognized as the centre of species endemism. More significantly, it is the largest wetland in Africa and the third largest in the World⁵¹. But notwithstanding, oil and gas exploration are carried out on daily basis without placing priority on the conservation of the biodiversity. The interest of the government weighs more in the exploration of the resources of the area than

⁴⁶ Mandatory study activities, see schedule to the EIA Act, 1992.

⁴⁷ See sections 6, 7, 22 and 30 of the National Park Service Act; sections 1 and 5(5) of the Endangered Species (Control of International Trade and Traffic) Act; section 7(c) of the National Environmental Standards Regulations and Enforcement Agency Act, 2007.

⁴⁸For example, Section 30 of the National Park Service Act, Cap.N65, LFN 2004 provides for restriction of certain activities in the National Parks.

⁴⁹The Government lacks the will power to implement the biodiversity laws in the region. It is regrettable that in the whole of the Niger Delta area, there is no functional protected site. It is a designed purpose on the part of the government not to hinder the activities of oil exploration in the area. Thus, any protection measure that is not in tandem with the federal government agenda is likely not to see the light of the day because of high economic priority in the area over the protection of the species.

⁵⁰An example is the case of *Jonah Gbemire v. Shell Petroleum Development Company Ltd and Ors* (2005) Suit No. FHC/B/CS/53/05 (unreported) where a Judge of the Federal High Court Benin, Nigeria ordered the Respondents to shut down their facilities on the ground that their continuing gas flaring in course of the oil exploration and production activities in Applicant's community, is a violation of their fundamental rights. The Federal government exercises its veto power and immediately transferred the Judge to another court in Katsina State of Nigeria and continued the flaring of the gas.

⁵¹K. S. A. Ebeku, (n.44), p. 363

taking any conservation measure⁵². As exploration is going on in the area so is biodiversity declining on daily basis because of the associated activities. A clear example is the incessant oil pollution and gas flaring in the area⁵³. In short, it seems to be human nature to exploit the only life sustaining environment for our immediate gain, even when doing so is injurious to the environment. Major development projects have caused negative impact on the environment due to lack of priority to the environment and ecosystem.

Presently, there is neither forest reserve nor national park in the Niger delta area notwithstanding the fact that the area contains abundant species of national and international importance, some of which are listed as endangered under domestic law and international treaty⁵⁴. In the IUCN Red List of globally threatened species 148 animals and 146 plants are found in Nigeria and out of which, 26 animals and 18 plants are classified as endangered and another three animals and 15 plants are critically endangered worldwide. Also the Niger Delta Wetlands Centre has found sixteen fish species which are endemic to the region, and another 29 which are near endemic⁵⁵. In all these revelations, there is no express priority in the laws for the conservation of the biodiversity.

The non-implementation of relevant biodiversity conservation laws in the Niger Delta area of Nigeria (probably because of a desire to exploit the abundant oil deposits in the area) is contrary to Article 7(c) of the CBD, which requires each Contracting Party to 'identify processes and categories of activities which have or are likely to have significant adverse impacts on the conservation and sustainable use of biological diversity, and monitor their effects through sampling and other techniques'. In addition, the failure to regulate harmful processes or activities (like oil and gas operations that cause pollutions and gas flaring) is arguably inconsistent with Article 8(a-c) thereof, which provides in sub-Article (a) that where a significant adverse effect on biological diversity has been determined pursuant to Article 7, a Contracting Party should 'regulate or manage the relevant processes and categories of activities'⁵⁶. In fact, as has been observed by Kiss and

⁵²Apart from the Cross River National Park established in 1991, there is no other known conservation measure accorded to the abundant wildlife of the Niger Delta region of the country. The park which is situated in Cross River State is not enough to cover the protection of biodiversity of the region particularly those of Rivers, Bayelsa, Delta, Edo and Akwa Ibom States of the country etc .

⁵³It is worthy of note that the federal government policy on gas flaring does not encourage total cessation despite its harmful effect on the environment but allowed gas flaring on payment of fine by the oil and gas companies. The principal enactment, the Associated Gas Re-Injection Act only prohibits the flaring of associated gas without prior consent or permission from the Minister of Petroleum resources. In this way, the oil companies afford to pay the attracting meager fine than embarking on any investment to stop gas flaring. And gas flaring has been identified as one of the direct causes of the loss and extinction of species of the area.

⁵⁴See Niger Delta Environmental Survey (NDES), Final Report Phase 1: Environmental and Social Economic Characteristics, Vol. 1 (Lagos, 1997) particularly at chapters 7 and 8.

⁵⁵Niger Delta Wetlands Centre (NDWC), Review of Initial Assessment of Environmental Issues in the Niger Delta and Niger Delta Biodiversity (Port Harcourt 1995).

⁵⁶The non-implementation of relevant conservation laws in Nigeria (Niger Delta region) may also be contrary to Nigeria's international commitment under Article 8(j) of the CBD, which requires State parties to respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities relevant for the conservation and sustainable use of biological diversity.

Shelton, ‘different Conventions increasingly converge to protect endangered or vulnerable species by conserving their habitats, and thus prohibiting takings and certain other human activities, including pollution.’⁵⁷ And because of lack of priority to biodiversity conservation, there is no commitment on the part of Nigeria Government to domesticate the various Conventions on biodiversity conservation that places priority on biodiversity conservation apart from the Convention on International Trade on Endangered Species of Wild Fauna and Flora (CITES) 1973 through the Endangered Species (Control of International Trade and Traffic) Act; and which has been riddled with some challenges⁵⁸.

In the event of conflict between conservation and economic interest, government policies usually favour economic interest contrary to what is obtainable in other countries of the world. For instance, in Scotland, conservation is identified as the overriding concern, as is the case for the National parks, where it is expressly stated that conservation is to have priority in the event of conflict between the park aims⁵⁹. Although there is a concern in practice that other considerations are too easily accepted as taking priority over the interests of conservation, but on the other hand examples do exist of major projects, supported by strong interests and in line with other aspects of government policy, being prevented in order to protect designated sites⁶⁰. But this is not the case in Nigeria. There is no priority for biodiversity conservation⁶¹. The Government (Federal Government) usually exercises its veto power to weaken the function of the concerned conservation institution(s) in time of priority conflict between biodiversity conservation and economic interest. It is the duty of the governmental institutions (relating to biodiversity conservation) to further the conservation of biodiversity so far as is consistent with the proper exercise of [their] objectives and functions and powers⁶². The desirability of furthering biodiversity conservation, therefore, is given clear legal status, but remains a secondary rather than the paramount concern. As it was observed:

“We can no longer see the continued loss of and changes to biodiversity as an issue separate from the core concerns of society: to tackle poverty, to improve the health, prosperity and security of present and future generations, and to deal with climate change. Each of those objectives is undermined by current trends in

⁵⁷A. Kiss and D. Shelton, *International Environmental Law*, 2nd edn. (London, 2000) at p. 327.

⁵⁸ See N.U. Sobere, (n 14).

⁵⁹National Parks (Scotland) Act 2000 (A.S.P. 3), s.9 (6). But in Nigeria, no such provision is made under the National Park Service Act or any other Wildlife law.

⁶⁰Colin T. Reid, (n.13), pp. 14-15, where in April 2008, plans for a wind farm of over 230 turbines in the north of Lewis, largely on one Special Protection Area and affecting others, were rejected on the basis of priority over biodiversity conservation

⁶¹For example, in *Jonah Gbemire v. Shell Petroleum Development Company Ltd and Ors* (2005) Suit No. FHC/B/CS/53/05, (Unreported), where the court sitting in Benin, Edo State ordered Shell to shut down its facilities and operations in the community of the Plaintiff because of its environmental harm. But this order was disobeyed by the Government and re-ordered Shell to resume operation. The judge was transferred instantly to another division. It has been identified that gas flaring is one of the emerging causes of biodiversity loss and extinction in Nigeria.

⁶² See Part II of the National Park Service Act.

the state of our ecosystems, and each will be greatly strengthened if we finally give biodiversity the priority it deserves".⁶³

1.4. It must be participative

Participation implies the idea that the public must be given the opportunity to 'take part in', and 'to influence' the law, policies and decision making processes on matters that affect their environment⁶⁴. It involves many different things, but it includes being able to have access to, understand, evaluate, formulate, and comment upon proposals, plans and programmes⁶⁵. Biodiversity is seen as something that affects everyone and, therefore, its conservation should be the concern of all parties, be it individuals, groups and organizations⁶⁶. Not only does the pervasive nature required for an effective conservation law entail direct engagement with a widening range of parties but the public is entitled to be involved in the policy choices that have to be made as conservation is given greater priority⁶⁷. Conservation must not be the closed domain of expert scientific bodies or designated institutions but something that everyone appreciates⁶⁸, and that is not imposed from outside but accepted as part of society's shared goals. On the other hand, the development of law and policy on biodiversity must be guided by the scientific principles and knowledge⁶⁹ and not unduly distorted by popular prejudices or favorites⁷⁰. The delivering of conservation policy in practice, it is a partnership of private and public bodies, some with a clear conservation focus and others with different primary concerns, that will often be an effective way to deliver long-term benefits and this is the approach being taken through the establishment of Biodiversity Partnership in Scotland⁷¹.

There are other mechanisms, though, by which a more participative approach is being fostered. Public participation is an essential element of environmental impact assessment wherever it is required⁷² and it is a key role of the Contracting

⁶³ See The Executive Summary, Global Biodiversity Outlook³. Available at <http://cbd.int/gbo3/> [visited 24 May, 2014].

⁶⁴ S. Bell and D. McGillivray, *Environmental Law*, 7th ed. (United States, Oxford University Press, 2008), p. 49

⁶⁵ See the UN/ECE Convention on Access to Information, Public Participation in Decision Making and Access to Justice, Aarhus, 1998.

⁶⁶ It is the common concern of the present generation to conserve and sustainably use the natural resources to equitably meet the needs of the present generation without jeopardizing that of the future generations. It is the common concern of all to protect the only life sustaining planet, the earth, by giving them the opportunity to participate where necessary.

⁶⁷ "Environmental issues are best handled with the participation of all concerned citizens, at the relevant level....". See Principle 10 of the Rio Declaration 1992.

⁶⁸ See Art. 13 CBD

⁶⁹ This is stated as a fundamental aspect of the ecosystem approach: "An ecosystem approach is based on the application of appropriate scientific methodologies focused on levels of biological organization, which encompass the essential structure, processes, functions and interactions among organisms and their environment". See Convention on Biological Diversity COP5 (2000), Directive V/6.

⁷⁰ On the balance between technical expertise and popular concerns in setting environmental policy.

⁷¹ There is a network of national and local partnerships involved in the Scottish Biodiversity Strategy and the Local Biodiversity Action Plans: See <http://www.biodiversity.gov.uk/> -accessed 26/04/16

⁷² Before the Agency (now NESREA) gives a decision on an activity to which an environmental impact assessment has been produced, the Agency shall give opportunity to government agencies, members of the public, experts in any relevant discipline and interested groups to make comment on the environmental

Party under the CBD⁷³. In relation to the management of National Park, the Board and Management Committees now consult with and take into account the views of local communities in the administration and management of the National Parks and may, in each case, establish Local Advisory Committees consisting of local residents to assist in the management of a National Park⁷⁴. Although there is no expression provision under the National Park Service Act providing for the local community affected to make representations on the proposed designation. Also, the National Biosafety Management Agency Act under section 25 provides for public participation and allows the public to study and make comments on the application and accompanying information of any person, body, or institution that wishes to export, import transit or carry out commercial release of genetically modified organism made pursuant to section 23 of the Act⁷⁵.

Environmental protection is best achieved by involving the people at the grass roots in the policy making. Government cannot do it alone. For example, to be more result oriented, the residents of the communities where there is a protected site must be involved from the beginning of the designation of the area to its management since the area prior to the designation as park or forest reserve were in possession of the local communities and means of their livelihood⁷⁶. They must be given adequate access to information to enable them participate efficiently and effectively and not to be denied the opportunity to participate in the making of decisions, which have or will likely have an impact on their environment. According to the pronouncement of the United Nation Human Rights Council in the case of *Ilmari Lansman et al v Finland*, ‘the essential thing is that the people have adequate opportunity to ventilate their concerns fully about a proposed policy or activity that may affect them’⁷⁷. Also Chapter 23 of Agenda 21 notes that broad public participation in decision-making is one of the prerequisites for the achievement of sustainable development. It further notes that in the context of environment and development, there is a need for individuals, groups and organizations to participate in environmental impact assessment procedures, to know about and participate in decisions, especially those, which potentially affect

impact assessment of the activity. See s. 7 of the Environmental Impact Assessment Act, Cap E12, LFN, 2004.

⁷³ The CBD provided under Art. 14 (1) (a) That Each Contracting Party, as far as possible and as appropriate shall: “ Introduce appropriate procedures requiring environmental impact assessment of its proposed projects that are likely to have significant adverse effects on biological diversity with a view to avoiding or minimizing such effects and, where appropriate, allow for public participation in such procedures”

⁷⁴ There is now participation of local communities in the management of National Park. See ss. 27(l) and 48 of the National Park Service Act, Cap N65, LFN 2004.

⁷⁵ See also ss. 21(i) and 27(k) of the National Park Service Act which provides for public participation in the management and activities of the National Park.

⁷⁶ This is the Subsidiary Principle which allows environmental problem to be first tackled at the lowest level; it is when the lowest level proves incapable of resolving such a problem that the next higher level of governance can intervene. This Principle is adopted by the European Union (EU) in tackling the problem of governance in the area of environment.

⁷⁷ See Communication No. 511/1992, UN Doc. CCPR/C/52/D/511/1992 (1994), UNHCHR, available at [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/7e86ee6323192d-2f802566e30034e775?](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/7e86ee6323192d-2f802566e30034e775?) Opened document [accessed 30 September, 2016]. See also *Apirana Mahuika et al v. New Zealand* Communication No. 547/1993.

their communities. The right to take part in the conduct of public affairs, directly or through freely chosen representatives is also recognized under article 25(a) of the *International Covenant on Civil and Political Rights*.⁷⁸

But it is worthy of note that most of the biodiversity laws in Nigeria do not possess this important attribute. The government unilaterally takes decisions on the environment and the enforcement mechanism adopted under the laws is closed ended. Specified persons/officers are designated with the power to enforce the law⁷⁹ accounting for the increasing threats on the country's abundant biodiversity. The importance of allowing the public to participate in environmental issues (such as biodiversity conservation) is widely recognized in Principle 10 of the Rio Declaration:

“Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have access to information concerning the environment that is held by public authorities...and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information available. Effective access to judicial and administrative proceedings, including redress and remedy shall be provided”.

One continuing weakness in Nigeria is in the rules of standing which make it hard for environmental groups and others with strong concerns but no direct legal, property or financial interest in a particular site or activity to invoke the law to support conservation interests. Statutory rights of complaint are usually restricted to the directly aggrieved party and judicial review requires proof of title and interest to sue.⁸⁰ In Scotland unlike in Nigeria, it has been argued that the restrictive rules on standing are in breach of the UK's obligation under the Aarhus Convention to provide access to justice on environmental matters for members of the public and environmental organizations.⁸¹ Although, of recent, progress is being made where individuals⁸², non-governmental organizations and such other institutions promoting environmental protection can now enforce the right to protect the environment through the Fundamental Human Rights (Enforcement

⁷⁸See the *International Covenant on Civil and Political Rights*, 16 December 1966, 999 UNTS 17, <http://www2.ohchr.org/english/law/ccpr.htm> (accessed 30 May, 2016).

⁷⁹For example, under the National Environmental Standards and Regulations Enforcement Agency Act, Cap. N164, LFN, 2004, the Agency is responsible for the enforcement of environmental standards, regulations, rules, laws, policies and guidelines. Also, under the Pest Control of Produce (Special Powers) Act, the power to enforce any contravention is vested on the Inspector who has the sole power to prosecute offenders.

⁸⁰The other interested groups (such as non-governmental organizations on the environment) are usually prevented from challenging the illegal activities on the environment on the ground of lack of *Locus standi*.

⁸¹See the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, June 25, 1998, 2161 U.N.T.S. 447, Art.9.

⁸²See the case of *Gbemre v Shell Petroleum and Development Company Ltd*, unreported Suit No. FHC/B/CS/53/05, where the court ruled that gas flaring by all oil exploration companies is illegal and constitutes a violation of human rights. The decision is an evidence of radical shift in judicial attitude, from placing greater premium on revenue from petroleum exploration and exploitation activities over environmental protection.

Procedure) Rules, 2009 without being caught by the doctrine of *locus standi*⁸³ to ensure that harm is prevented or the environment remedied from any impact⁸⁴.

In the case of Social and Economic Rights Action Centre and the Centre for Economic and Social Rights v Nigeria⁸⁵, which case was brought to the African Commission on Human and Peoples' Rights on behalf of the Ogoni (people). The Plaintiffs alleged violation of articles 2, 4, 14, 16, 18 (1), 21, and 24 of the *African Charter on Human and people's Rights*⁸⁶ resulting from several abuses occasioned by the oil exploration activities in the area *inter alia* that the oil development operations in the area caused environmental degradation, (loss of biodiversity) and health problems resulting from the contamination; that the consortium neglected and or failed to maintain its facilities causing numerous avoidable spills in the proximity of villages thus resulting in contamination of water, soil and air which has had serious short and long-term impact on their environment etc. In its decision, the Commission found that the Federal Republic of Nigeria was in violation of Articles 2, 4, 14, 16, 18(1), 21 and 24 of the African Charter on Human and People's Rights; and appealed to the government of the Federal Republic of Nigeria to ensure protection of the environment, health and livelihood of the people of Ogoniland by: stopping all forms of attacks on their communities and leaders and permitting citizens and independent investigators free access to the territory; conducting an investigation into the human rights violations and prosecuting officials of the security forces, and relevant agencies involved in human rights violations; ensuring adequate compensation to victims of the human rights violations; undertaking a comprehensive cleanup of lands and rivers damaged by oil operations; providing information on health and environmental risks and meaningful access to regulatory and decision-making bodies to communities likely to be affected by oil operations⁸⁷. It is argued that the outcome of the Commission's decisions and further agitation by the Ogoni people has resulted to the Federal government determination and commitment to remediate (clean up) the Ogoni land polluted by the crude oil to sustain their environment⁸⁸.

⁸³See Order XIII of the Fundamental Human Rights (Enforcement Procedure) Rules, 2009 which guarantees the "right of any other person or body to be heard" whether or not the party has any interest in the matter.

⁸⁴See *Jonah Gbemire v. Shell Petroleum Development Company Ltd and Ors* (*supra*).

⁸⁵ See the Social and Economic Rights Action Centre and the Centre for Economic and Social Rights v Nigeria (2001) African Commission on Human and Peoples' Rights Comm. No. 155/96

⁸⁶ Article 2 (deals with enjoyment of the rights and freedom recognized under Charter without any distinction such as race, ethnic group, colour, sex language, religion, political or any other opinion), Article 4 (deals with respect for life and integrity of persons), Article 14 (Provides for right to property), Article 16 (provides that every individual shall have the right to enjoy the best attainable state of physical and mental health), Article 18 (provides for the protection of the family by the state), Article 21 (Provides that all peoples shall freely dispose of their wealth and natural resources) and Article 24 (provides that all people shall have the right to a general satisfactory environment favorable to their development).

⁸⁷It is important to note that during the deliberations by the African Commission on Human Rights, a new civilian government assumed power, which amongst other things established the Federal Ministry of Environment in 1999 to address environmental related issues prevalent in Nigeria particularly in the Niger delta region and enacted the Niger Delta Development Commission Act, LFN 2004, Cap. N86..

⁸⁸The cleanup is bid to commence on the 31 day of May 2016 as announced in the NTA 7am News of 30th May, 2016 where the delegation of the Minister of Environment accompanied by the Acting NDDC Chairman to the impacted site was displayed. .

It has been decided by both foreign and domestic courts that right to life encompasses healthy environment. In the case of *Subhash Kumar v State of Bihar*⁸⁹, the Indian Supreme Court categorically stated that the right to life guaranteed under the 1949 Constitution of India includes the right to a healthy environment. Therefore, the protection of the environment is cardinal to life and the laws must be participative.

1. 5. Precautionary and Proactive

Although prevention remains the general basis and foundation for environmental protection, the precautionary principle⁹⁰ can be considered as its most advanced application. Similar to prevention, precaution seeks to anticipate and avoid environmental harm particularly when consequences of non-action can be particularly serious or irreversible. It allows cost effective measures to be taken to tackle foreseeable environmental harm at the earliest stage rather than relying on scientific proof or allowing the harm to occur before taking actions. Such environmental harm could be identified during EIA stages and adequate preparation made towards preventing the occurrence of the harm. Most of the projects carried out particularly in the Niger delta area of Nigeria did not have baseline information on the nature of the environment. The UNEP report of the Environmental Assessment of Ogoniland attests to this fact⁹¹.

The loss of species is irreversible and it is better to take precaution to minimize its losses. The natural environment is dynamic, not static, and it may change in ways that we cannot predict, even as we continue to improve our present partial understanding of the complex interactions between species and the ecosystem in which they inhabit. Effective conservation of biodiversity must take account of these facts. It must look forward and be ready to cope with unexpected changes. This is a dimension which has not yet become a significant feature of the biodiversity laws in Nigeria despite its widely acceptance under Principle 15 of the Rio Declaration on Environment and Development which provides that:

“The precautionary approach shall be widely applied by states according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation”.

The principle requires the government to be forward looking and take preventive actions to prevent damage to the environment. Overall, though, the bulk of the law does not look forward to any great extent. The fundamental structure of the present mechanisms, based largely on protecting the sites currently of most value,

⁸⁹ *Subhash Kumar v. State of Bihar* (1991) AIR 420.

⁹⁰ It is recognized under Principle 15 of the Rio Declaration and provides that: “In order to protect the environment, the precautionary principle shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation”.

⁹¹ See the UNEP Environmental Assessment of Ogoniland (2011), p. 88, where it was reported that there was no baseline information available on either the nature of the environment or socio-economic status of the community prior to the initiation of oil exploration .

may not be well-suited to some of the challenges that are being faced. The whole basis of the law in protecting existing species and sites of value may be undermined by the impact of climate change⁹². A changing global climate threatens species and ecosystems. The distribution of species (biogeography) is largely determined by climate, as is the distribution of ecosystems and plant vegetation zones (biomes). Climate change may simply shift these distributions but, for a number of reasons, plants and animals may not be able to adjust⁹³. A site may be given complete protection from direct interference, but may still lose all its value for wildlife if changing temperature alter the plants that can grow there or changing sea-levels or flooding patterns inundate the site so that conditions become hostile to the species for which the site was being treasured⁹⁴. Sea-level rises which result in the flooding of salt-marshes are not in themselves a problem for biodiversity; the problem arises where coastal defences prevent the natural process of new salt-marshes developing along the new shoreline. Creating the scope for nature to adapt to changing circumstances is a major challenge and requires protection to be given not only to the sites that are valuable today but also to those that may become the essential refuges or pathways as species are forced to move inland from the current shoreline or to cooler areas or higher altitude as weather conditions change⁹⁵.

1. 6. Conclusion

This work has shown the attributes needed by a set of wildlife laws that is going to respond seriously to the challenge of conserving and enhancing biodiversity. The law in Nigeria has evolved considerably towards meeting this challenge, but it must be noted that it has done so whilst operating within a fairly narrow range of legal techniques. The law today takes a more holistic approach and offers much more protection to wildlife than it did during the pre-colonial and colonial era, but it is still based largely on a framework of the traditional “command-and-control” regulation, making use of criminal prohibitions, permit and licensing schemes and other direct controls applied through a statutory conservation body which identifies and designates sites and species of particular value or under particular threat. The extent to which things have changed, broadening the scope of the law and increasing the weight given to biodiversity, demonstrate the flexibility of this approach, and the potential for further development along the same lines.

⁹²As discussed above, climate change is one of the causes or threats to the country’s wildlife. It is likely to play an increasing role in driving changes in biodiversity and species’ distribution and relative abundance. See also Global Environmental Outlook, GEO4, UNEP, 2007, p. 38

⁹³N. U. Sobere., A Critical Analysis of the Threats to Biodiversity: Implication and the Legal Responses, being a Long Essay submitted to the Faculty of Law, Obafemi Awolowo University, Ile-Ife , Nigeria in partial fulfillment for the award of Mater of Laws (LL.M) degree (2008) p. 92

⁹⁴There are also difficulties for the laws dealing with non-native species, since changing conditions will lead to new species by themselves colonizing areas previously outwit their range or being able to thrive in areas where hostile conditions have previously stifled any deliberate or accidental introduction.

⁹⁵Arie Trouwborst, “International Nature Conservation Law and the Adaptation of Biodiversity to Climate Change: A Mismatch?” Vol. 21 (2009) *Journal of Environmental Law*, p. 419.

Yet the fact remains that the goal of halting biodiversity loss and extinction in Nigeria is not being achieved as thought. This is simply because the existing laws have not been made more pervasive and given conservation greater priority; although, the position is undoubtedly better than it was, but too many indicators still show a decline in the country's biodiversity.

For the legal support necessary to deliver the vision of halting the incessant losses and extinction of the country's species, the law must utilize a wider range of legal techniques moving away from the viewing of wildlife as something primarily to be nurtured by the state through direct regulatory powers and creating more scope for private initiative. There must be dedicated legal tools available to support non-governmental organizations and ecologically-minded individuals in conserving biodiversity. This kind of approach would offer the maximum pervasiveness and priority for biodiversity concerns.

Another key challenge for achieving the country's conservation objectives and the targets of other international conservation treaties to which Nigeria is a State party lies in improving the integration of biodiversity consideration into other sectoral areas. Unless ways are fashioned through law and other mechanisms, to achieve such integration, the indirect drivers or underlying causes of the country's abundant biodiversity loss will not be addressed effectively. This required enhanced efforts in domestic biodiversity laws and policy-making, but also calls for greater attention to the relationship of biodiversity regime with other areas of domestic law and policy that governs some direct and indirect causes of biodiversity loss⁹⁶. The goals of conservation and sustainable use of biodiversity will not be achieved unless ways are also designed to build biodiversity considerations effectively into other regimes addressing, *inter alia*, trade, poverty, population, urbanization, food security, agriculture etc.

In the future, any development in Nigeria is likely to be conservative, continuing the process of developing and or amending the existing legislations to incorporate the needed attributes of wildlife regime. It is obvious that a lot has been achieved as the law has evolved from preventing a few particular damaging activities or species, to the position where it supports a more positive and holistic view and this evolution must continued if the country's abundant wildlife is to be maintained and restored. Wildlife law that is increasingly pervasive, that takes a positive approach, that is given increased priority and that stimulates the participation of an increasing number of people, can do a lot to establish both strongly supported bio-citadels and a generally bio-friendly countryside and townscape.

⁹⁶ For instance, population, urbanization, climate change, poverty, etc. are some of the known causes of the country's abundant wildlife but yet there are no definite laws in this regard.

