African Jurisprudence in the Management of Environmental Crisis

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ABSTRACT

Prior to the invasion of the Portuguese, French, and British, Africans had existing rules, regulations, and mechanisms for addressing environmental issues. It is wrong to assert that, because we are Africans, we do not have practices that promote environmental justice. Civilization through technology has erased African strategies that could be considered local in addressing environmental issues. This paper depicts African legal thoughts and addresses the dichotomy between African and Western cultures. Also, this paper brings back our lost heritage. The paper aims to strike a balance on how environmental law issues can be addressed in Africa, using Nigeria as a case study.

Keywords: Jurisprudence, Management, Environmental Crisis, Protection, Effective legal structures

Introduction

African legal culture is an offspring of African traditional thought. According to Taylor, as quoted by Babawale, culture in its wide ethnographic sense is a complex whole that includes knowledge, belief, art, morals, law, custom, and any other capabilities and habits acquired by man as a member of society. In simpler terms, culture can be defined as the way of life of a group of people. However, life for such a group would be worthless and meaningless without a legal framework to regulate human conduct and maintain peace and order. The existence of a society and its people is a prerequisite for a way of life. Despite the thousands of ethnic groups in Africa, there is still a uniqueness and point of convergence in the African way of life. For instance, Africans may describe their gods or heroes in diverse ways, reflecting the myriad languages and concepts, yet a uniformity of metaphysics and epistemology underlies these descriptions. This includes shared beliefs about the origin and nature of the state, the authority of rulers, the rights of citizens, and social structure, among others.

However, the formation of African societies differs significantly from that of the Western world. Unlike the Western approach, which often evolves from rational calculation or deliberate planning, African societies have evolved naturally. The Hobbesian state of nature and social contract, a hallmark of Western political philosophy, illustrates this difference. African legal culture, therefore, is shaped by its unique historical, social, and cultural context. The architecture and furnishings of jurisprudential and legal research have been largely distilled from European and American experiences, often leading to a distorted view of African law. There is myth which surrounds African Jurisprudence. African law is often misconstrued as being primitive or lacking in sophistication. However, this perspective neglects the complexity and nuance of African legal systems. In reality, African societies have a rich tradition of law and governance, shaped by their unique cultural, social, and historical contexts.

Understanding and appreciating these differences is crucial for promoting cultural sensitivity and developing effective legal frameworks in Africa. By recognizing the richness and complexity of African legal culture, we can work towards creating legal systems that respect and value African traditions and customs. This approach can help foster a more inclusive and equitable society, where the legal framework serves the needs and aspirations of all members of the community.Furthermore,the idea of law in African societies is often displayed and portrayed in cultural festivals and social dances. For example, in Yoruba society, laws and taboos are pronounced in songs and chanting, serving to acquaint people with the laws that govern social institutions like marriage. These laws are not always written down but are believed to be registered in the collective memory and consciousness of the community.The absence of written forms of law in many African societies does not imply a lack of legal sophistication. Instead, it reflects the communal nature of African societies, where laws are often enforced through social norms and collective responsibility. The concept of "Oowe" (collective or communal help) in Yoruba society, for instance, speaks to the existence of laws that define relationships and promote social equilibrium.

Moreover,the question of what constitutes law remains a challenge in Western jurisprudence, and it is preposterous to conclude that Africans lack an understanding of law simply because their legal systems differ from those of the West. In fact, Max Gluckman's work on the Barotse people highlights that Africans have a clear idea of natural justice, which they apply within their particular economic and social conditions. African law is not merely a reflection of customs or traditions but a complex system that aims to preserve personal freedom and protect private property, much like legal systems in other parts of the world. By recognizing the richness and diversity of African legal systems, we can work towards a more inclusive and nuanced understanding of law and governance.The notion that there is no unity to African law is a myth that has been perpetuated by some scholars. According to this view, Africa's diversity in language, culture, and ethnic groups makes it impossible to identify a common African legal culture or tradition. Some adherents of this myth, including Olufemi Taiwo, argue that the concept of an African legal tradition is a myth invented to fit diverse African practices into a single theory.

However, this perspective has been challenged by other scholars who argue that despite Africa's diversity, there are commonalities and shared values that underlie African legal systems. For example, P.C. Nwakeze argues that Taiwo's problem lies in his failure to distinguish between the use of "African Culture" in a generalized context and "African Cultures" in a specific sense. Nwakeze contends that it is possible to talk about African culture, African legal tradition, and African values, as long as what is significantly common and fundamental to the cultures being examined is abstracted and emphasized.The debate highlights the complexity of defining African law and the need for a nuanced understanding of the diverse legal systems across the continent. While it is true that Africa is home to many different cultures and traditions, it is also possible to identify common themes and values, which can be identified and appreciate. The question of whether or not there is a unified African legal tradition is a matter of interpretation. However, it is clear that African legal systems are rich and complex, and deserve to be studied and understood in their own right, rather than being judged against Western standards. By recognizing the diversity and richness of African legal systems, we can work towards a more inclusive and nuanced understanding of law and governance.

The notion that African law is based on fear of supernatural beings is a myth with no foundation in reality. In fact, studies have shown that African legal systems are rooted in a

complex understanding of justice, morality, and social norms. Among the Barotse people, for instance, Max Gluckman argued that the basis of obedience to the law is the "idea of justice inherent in the principle of the reasonable man". This principle emphasizes social harmony, justice, and individual responsibility, rather than fear of supernatural forces.

Key Features of African Law
- Reasonable Man Principle: This concept highlights the importance of social principles, customs, and habits in shaping African law.
- Justice and Morality: African law aims to achieve justice and promote moral conduct, similar to Western legal systems.
- Community-Based: African legal traditions often emerge from community norms and practices, emphasizing mediation and harmony over individual rights.
- Advanced Procedures: African legal systems, such as the Barotse system, have developed advanced procedures for applying laws and resolving disputes.
- Religion and Custom: More respect is built from the fear of law and custom. For instance, the dos and don'ts in a community must be adhered to. The King or traditional ruler is also known as a god (in Yoruba, Igbakeji Orisa). Whatever the king says is final.

Jurisprudential Analysis of African in Management of Environmental Issues; Yoruba as A Case Study

Traditional African societies have long recognized the importance of environmental stewardship, and this is reflected not just in their customs but also in the wisdom encapsulated in their proverbs. Proverbs are a vital element of African oral culture, serving not only as tools for communication and teaching but also as expressions of community values and ecological understanding. Among the Yoruba people, several proverbs directly address the human relationship with nature, highlighting the ethical obligation to care for the environment. One such proverb says, "Bi a kò bá tójú ilé, ilé á máa tójú wa" – meaning "If we do not care for the land, the land will not care for us." This proverb emphasizes the reciprocity between humans and their environment. It teaches that neglecting the earth leads to suffering for its inhabitants. Land degradation, poor harvests, and ecological disasters can be seen as consequences of human carelessness, aligning with modern principles of sustainability.

Another powerful proverb, "A kì í gò igi léyìn kí a máa bà á" ("You don't break a tree from behind causing harm") serves as a caution against deforestation and environmental destruction carried out thoughtlessly. Trees in African tradition are not just plants; they are homes for spirits, symbols of life, and essential to the balance of ecosystems. Cutting them without regard for their importance leads to long-term consequences, both spiritual and ecological. In this light, deforestation is not merely a scientific or economic issue it is a moral one. The proverb warns against acts that bring harm to what sustains us, reminding us that nature responds to how it is treated.The saying "Orí igi gígùn ni ẹyẹ ń jó sórí" (It is on strong trees that birds perch) further affirms the value of preserving robust natural structures. Strong trees represent stability and resilience in the environment, and the birds that perch on them symbolize life that depends on such stability. The implication here is that the destruction of forests removes the foundation for biodiversity. When large trees are cut down, entire ecosystems collapse, and species that depend on them vanish. Thus, this proverb teaches the interconnectedness of all living things and the need to protect critical elements of the natural world.

Moreover, the Yoruba saying "Eranko kì í fòkàn tán, kò tún je" (An animal doesn't finish scaring you and still comes to eat with you) is reflective of ancient principles of wildlife conservation. The proverb conveys the message that wild animals should be respected, and their habitats should not be unnecessarily encroached upon. It emphasizes restraint and balance in human-animal interactions, pointing to a worldview where hunting is controlled and nature is revered. These kinds of ideas form the philosophical basis of conservation efforts, which long existed in African societies before the arrival of modern environmental science or colonial regulations.

Historically, Africans had systems in place that ensured the protection of their environment long before colonial influences introduced Western-style environmental management. Among these systems were sacred forests and groves, which were common in many African societies, particularly in Nigeria, Ghana, Kenya, and Tanzania. These forests were often dedicated to ancestral spirits or deities, and access to them was regulated through strict traditional laws. Hunting, farming, or tree-felling in such places was either limited or outright forbidden. In some communities, hunters could only access sacred groves once a year during a specific festival. A good example is the ancient festival observed in Idanre land in southwestern Nigeria, where hunters are permitted to hunt only once annually as part of a ritual celebration. These practices ensured that wildlife populations had time to regenerate and that the forest ecosystems were preserved. In contrast, modern times have seen a breakdown of these traditional rules. With weakened community structures, commercial interests, and the loss of indigenous beliefs, forests and wildlife are now exposed to exploitation. Hunters invade at will, leading to overhunting, species depletion, and the destruction of natural habitats. This breakdown is a reflection of the larger problem facing the continent where once-effective indigenous environmental systems are being eroded by modernization without being adequately replaced by effective legal structures.

Another vital component of African environmental governance was community-based land use rules. Land was not privately owned in many traditional African societies; instead, it was held in trust by families, clans, or the entire community. This collective ownership system created a sense of shared responsibility. Community elders or chiefs regulated how land was used, ensuring it was not overexploited. Rules existed for crop rotation, fallow periods, and the protection of buffer zones. These measures were rooted in long-term thinking, ensuring that land remained productive for future generations.

In addition, Water sources were also revered and protected. Rivers, springs, and lakes were considered sacred in many communities. They were seen as gifts from the gods and were protected through religious customs and taboos. Polluting such sources could lead to spiritual punishment and social sanctions. This belief system functioned as an effective environmental regulation, deterring harmful behaviors without the need for written laws. In this way, the community's worldview reinforced environmental sustainability through culturally respected channels.

Totems and taboos played a similar role in environmental protection. Certain animals were totems for clans or families and were not to be killed or eaten. These symbolic prohibitions helped to conserve particular species. In many cases, these totemic species were keystone animals, playing critical roles in maintaining ecosystem balance. Taboos also governed when people could fish, hunt, or gather from forests. These cultural codes acted as environmental safeguards, helping to regulate timing and intensity of resource use.

In traditional agriculture, Africans employed environmentally friendly techniques to manage pests and maintain soil fertility. Instead of relying on modern chemical insecticides, which contribute to air pollution and ozone layer depletion, farmers used locally available materials. Leaves from the neem tree, known for their insect-repellent properties, were used to protect crops. Other natural materials like hot pepper, wood ash, and charcoal were mixed and sprinkled around farms to deter pests. These organic substances were not only cost-effective but also safe for the environment. In addition, smoke from burning dried leaves or cow dung was commonly used to chase insects from homes or farm areas. These practices, though now seen as old-fashioned, reflect a deep understanding of ecological balance and sustainability. They present alternatives to modern chemicals that often harm the environment while only offering short-term solutions. These indigenous approaches to environmental management reveal that Africa was not a continent in need of "civilizing" when it came to its relationship with nature. On the contrary, African societies had developed sophisticated methods for conserving their natural resources—methods rooted in spirituality, respect, and community ethics. The erosion of these traditional systems, under the pressure of colonization and globalization, has contributed significantly to the continent's current environmental crises.

Conclusion

We are able to establish the dichotomy between Western culture and African culture, particularly in the context of environmental management. While Western societies have pioneered technological advancements that play a significant role in addressing climate change and other environmental challenges, it is important to recognize that Africa has its own unique and effective approaches rooted in traditional knowledge, creativity, and community-based practices.This is not to nullify the impact of technology. Indeed, innovations such as solar panels, waste-to-energy systems, and satellite monitoring have proven effective in managing environmental issues. However, in many African communities, especially rural areas, access to these technologies is limited. The process of technology diffusing from urban centres to grassroots levels can take years due to infrastructure deficits, cost, and lack of technical knowledge. Therefore, relying solely on high-end solutions may leave large portions of the population without adequate tools for immediate environmental action.

To ensure real progress in mitigating climate change, a balanced mechanism is needed—one that blends modern technology with local knowledge and practices. African societies have long demonstrated ingenuity and resourcefulness in their approach to sustainability. For example, the re-use and repurposing of plastic materials remain widespread across the continent. Plastic containers are creatively transformed into plant pots, construction bricks, water storage vessels, and even decorative items. This practice, while born out of necessity, significantly reduces plastic waste and reflects a culture of environmental consciousness.

Moreover, Africa's deep cultural ties to the land and wildlife have historically served as protective mechanisms for biodiversity. In many indigenous communities, animals are respected and sometimes revered. Taboos, totems, and sacred groves have long prevented the indiscriminate killing of wildlife. Unfortunately, these systems have weakened in recent decades, leading to increased poaching and biodiversity loss. However, reinforcing traditional values alongside modern conservation laws could help protect endangered species and promote a more sustainable relationship with nature.

Ultimately, Africa's strength lies in its ability to adapt and innovate within its cultural framework. Rather than replacing indigenous methods with foreign technologies, a hybrid

approach that respects tradition and incorporates innovation will better serve the continent's environmental future. Sustainability in Africa must be culturally relevant, inclusive, and practically accessible to all.

Recommendation

Having balanced my write-up, I have been able to demonstrate that Africa possesses a rich and effective heritage in managing environmental issues. Long before the advent of Western technology and environmental frameworks, African societies had already established systems rooted in culture, tradition, and communal values to protect their natural environment. These methods were not only sustainable but also deeply respected by the people who practiced them. From sacred forests and totemic wildlife protections to eco-friendly pest control and land-use customs, African environmental management was holistic, practical, and community-driven.

However, as Africa faces modern environmental challenges climate change, pollution, biodiversity loss it becomes clear that a hybrid approach is needed. To strengthen and modernize traditional systems while embracing beneficial aspects of modern technology and law, several recommendations must be implemented.

First, the codification of customs and culture related to environmental stewardship is crucial. These age-old practices, though effective, lack legal backing. By integrating them into formal law, governments can protect, promote, and enforce cultural sustainability practices.

Second, the creation and empowerment of local agencies will enable effective environmental mechanisms at the grassroots level. These agencies, rooted in communities, can translate national environmental policies into actionable, locally adapted solutions.

Third, judicial activism must be encouraged. Courts should play a more assertive role in interpreting environmental laws, setting precedents, and ensuring compliance. When the judiciary is proactive, it reinforces the seriousness of environmental justice.

Finally, environmental issues must be treated as serious legal matters and not just discussed in webinars or policy dialogues. Entertaining environmental cases in courts of law will give voice to affected communities and hold polluters accountable through formal justice systems. In summary, a culturally sensitive and legally reinforced environmental system is essential for Africa's sustainable future.

References

1. Shemudara, O.T., 2022. African legal thought: A reflection on Yoruba legal culture. International Journal of Comparative Law and Legal Philosophy (IJOCLLEP), 4(1), pp.74–80.
2. Ashukem, J.-C. N. & Sama, S. M. (eds.) (2023) Human Rights and the Environment in Africa: A Research Companion. Routledge.
3. Ashukem, J.-C. N. & Sama, S. M. (eds.) (2023) Domestic and Regional Environmental Laws and Policies in Africa: A Research Companion. Routledge.
4. Social and Economic Rights Action Center (SERAC) & Centre for Economic and Social Rights v. Nigeria, Communication No. 155/96, African Commission on Human and Peoples' Rights (27 Oct. 2001). (Landmark African Commission decision on environment and human rights).

5. LIDHO & Others v Republic of Côte d'Ivoire (Trafigura toxic-waste case), African Court on Human and Peoples' Rights, Judgment (5 Sept. 2023).

6. Fuel Retailers Association of Southern Africa v Director-General: Environmental Management, Department of Agriculture, Conservation and Environment, Mpumalanga Province & Others [2007] ZACC 13 (Constitutional Court of South Africa).

7. Okidi, C. O. (ed.) (2012) Law | Environment | Africa (collection / edited volume celebrating environmental law scholarship in Africa). (See editorial/introduction and chapters.)

8. Gray, K. R. & Chaytor, B. (eds.) Environmental Policy and Law in Africa (collection) foundational edited work on environmental policy and law in Africa. (Accessible via publisher collections / academic repositories).

9. Ebeku, K. S. A. (2003) 'The right to a satisfactory environment and the African Commission: SERAC v Nigeria', African Human Rights Law Journal (analysis / chapter).

10. African Commission on Human and Peoples' Rights, State Reporting Guidelines and Principles on Articles 21 & 24 (Right to Development & the Environment) ACHPR guidance on Article 24 obligations. (AU / ACHPR document).

11. "The African Court judgment (Trafigura) full text" (official judgment PDF published by the African Court).

12. Dersso, S. (article) 'The jurisprudence of the African Commission in human and peoples' rights' doctrinal overview (useful for jurisprudential method and Commission practice).

13. "Request for an Advisory Opinion on the Human Rights Obligations of African States in Addressing the Climate Crisis" (petition / case file and summaries on Climate Case Chart) useful for climate-related advisory jurisprudence.

14. Amnesty International (2024) 'Côte d'Ivoire: Protecting the environment and people's right to health against corporate actions' — contextual analysis of Trafigura decision and obligations.

15. Rose, T. & Abioye, F. (chapters) in Ashukem & Sama (eds.), Human Rights and the Environment in Africa judiciary, climate change and criminal law nexus (useful doctrinal chapters).

16. "Extending human rights accountability for corporate actors: Lidho v Côte d'Ivoire (African Court)" EJIL:Talk commentary (analysis of corporate accountability in African Court jurisprudence).

17. Lexology / law-firm briefings: analysis pieces on the Trafigura / Cote d'Ivoire decision (useful for practitioner perspectives and reparations issues).

18. Environmental Justice in Africa (edited collection / chapters on human rights system as environmental justice mechanism) — University Press chapters and essays.

19. "Article 24 of the African Charter academic commentary" (Longo / scholarly theses and articles explaining Article 24 and jurisprudential development).

20. African Court — ULIi / judgments index 2023 (list of 2023 judgments, including environmental decisions) — for primary case citations and texts.

21. HLRN / FIDH briefing on the African Court judgment in the Trafigura matter (NGO case brief and judgment summary / reparations recommendations).

22. "Crucial African Court decision follows Ivory Coast environmental disaster" — AfricaLII article summarising impact of 2023 decision on environmental jurisprudence.

23. Mpunga-Biayi, P. (2025) 'Responsibility of States for Environmental Damage Caused by Transnational Activities' — journal article discussing state responsibility and recent African Court rulings (useful for evolving doctrine).