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A Legal Appraisal of the Conceptualization of Environmental Protection

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Abstract

This paper provides a critical legal appraisal of the conceptualization of environmental protection, examining its evolution, theoretical foundations, and implementation within national and international legal frameworks. Environmental protection has shifted from a reactive approach rooted in common law remedies to a more proactive, rights-based and sustainable development-oriented paradigm. The study explores key legal principles such as the precautionary principle, polluter pays, intergenerational equity, and public participation, and evaluates how these have shaped environmental legislation and policy. It further investigates the role of soft law, multilateral environmental agreements, and judicial activism in defining the legal contours of environmental protection. Challenges such as weak enforcement mechanisms, conflicts between economic development and ecological sustainability, and disparities in global environmental governance are also addressed. The paper argues for a more integrated and enforceable legal framework that balances ecological imperatives with socio-economic needs, advocating for the elevation of environmental rights within the broader context of human rights. Ultimately, the appraisal highlights the need for a robust legal conceptualization that responds effectively to contemporary environmental threats, including climate change and biodiversity loss.

Keywords: legal, appraisal, conceptualization, environmental protection

1. The Concept of Environmental Protection

Generally, the term environment means ecology, the air, water, minerals, organisms, and all other external factors surrounding and affecting a given organism at a given time.[1] It is the complex of physical, chemical, and biological factors/processes which sustain life. In fact, the environment has been described as the totality of the physical, economic, cultural, aesthetic and social circumstances and factors, which surround and affect the desirability and value of property and which also affect the quality of people's lives. According to the World Bank, environment is the natural and social conditions surrounding all mankind and including future

[1] Garner BA. (2004). *Black's Law Dictionary*, 8th edn, St. Paul's Minn, United States of America: West Publishing Co.

generation.[1]

Environmental protection encompasses a wide array of measures aimed at conserving, maintaining, and preserving the state of the environment. While this definition simplifies the concept, it may be deemed overly restrictive as it primarily focuses on avoiding or preventing activities that harm the environment.

This "ancient" perspective of environmental protection emphasizes what should not be done to ensure environmental safety. However, modern environmental protection extends beyond mere prevention of harm to proactive actions that enhance environmental safety. It involves stakeholders taking positive steps to create a safer environment. In essence, environmental protection is not solely about avoiding detrimental actions but also includes actively sustaining and improving the environment through positive measures.

Moreover, the definition of environmental protection is subjective and varies depending on the context. Each treaty or agreement tends to define environmental protection based on the specific subject matter it addresses. For instance, the Kyoto Protocol predominantly considers environmental protection in terms of climate change and pollution, while the Convention on Biological Diversity focuses on conserving plant and animal life (biodiversity). Further, the nature of environmental protection has evolved with time. From the onset, environmental protection was simply geared towards the preservation endangered species of fauna and flora as reflected in the early treaties. Under this form of protection, states simply had to ensure the protection of their natural environmental to fulfill their obligations under the treaty. From this initial setting, environmental protection expanded to protection of other natural elements like air, water, land, space and in fact basically everything around us which has an impact on the environment is now subject to environmental protection. Though these elements may fall within the territorial boundaries of a particular state, their use causes effects beyond their boundaries; this therefore imposes a new standard of protecting the environment. This new standard takes environmental protection from a national to an international obligation which imputes a responsibility on states to cater for their environment. This forms the basis of environmental protection under international law and to these we now turn. To better elaborate on the concept of environmental protection, it will be prudent to analyze the concept from the global and regional perspectives.

1.1 Concept at the Global Level

The concept of global environmental commons encompasses specific areas that are not subject to any single national jurisdiction, such as the high seas, the atmosphere, Antarctica, outer space, as well as other commons that may fall within defined national or regional boundaries but offer benefits beyond them. Freshwater ecosystems, coastal areas, and marine ecosystems also fall under this category, providing essential benefits to the global community. [2] Safeguarding the global environmental commons involves operating within planetary boundaries, preserving and managing these shared resources and ecosystems sustainably, along with addressing their common vulnerabilities and risks. Due to the Trans boundary nature of these environmental commons and their interconnectedness, sustainable management necessitates coordinated and integrated efforts. This approach emphasizes the importance of collective responsibility and cooperation among nations to address environmental challenges that transcend borders. By recognizing the interconnectedness of these global resources and ecosystems, it becomes imperative to adopt a holistic and collaborative approach to their conservation and sustainable use.[3]

The global environmental commons being foundational to the existence and good functioning of human societies and economies, failing to secure them would have grave consequences and directly hamper the achievement of the sustainable development goals, noting that global environmental commons have direct influence on sustainable

[1] See World Bank. (1991). *Environmental Assessment Source Book.* Washington D.C.: World Bank Tech. Pap.

[2] Baumol WJ, Oates WE. (1988). *The Theory of Environmental Policy.* Second Edition. Cambridge University Press, Cambridge.

[3] Mohn C (ed). (1980). *Environmental Law. From Resources to Recovery.* (West Publishing, St. Paul, Minn), p. 51. Tanja Brauhl and Udo E. Simonis. (2010). *World Ecology and Global Environmental Governance*, Science Center Berlin. Available at https://www.econstor.eu/obitstream/10419/49549/1/322769558.pdf. Accessed on the 2nd of July 2021.

development goal two which talks of zero hunger, goal six which is of clean water and sanitation, goal nine which talks of industry, innovation and infrastructure, goal thirteen on climate action, goal fourteen on life below water and goal fifteen on life and land corollary, securing these global environmental commons would have a positive impact on accelerating progress on human well-being and capacities, sustainable food systems and in achieving sustainable development and energetic system.

Environmental problems have always been part of our history of life and work, yet the way in which environmental problems are perceived and politicized has changed. This is because at first, only local and regional environmental problems were recognized but in recent years, global environmental problem have been a major cause of concern. Global problems can be tackled only by means of internationally coordinated environmental policies.

The United Nations conference on the Human environment in 1972 is regarded as the starting point towards tackling environmental concerns. Since then, a number of environmental agreements have been entered into both national and bilateral but in most cases multilateral and global have been signed. The efforts undertaken so far are not comprehensive enough and they do not appear to be sufficient. So, there is still a wide policy-implementation gap between ongoing environmental standards that have been agreed upon and the compliance record that can be noted for them. Three causal complexes seem to be responsible for the degradation of the environment. First, the overuse of renewable and non-renewable resources[1], second, natural sink are being over burden[2]. Third, more and more ecosystem are being destroyed to make way for man's habitat, for settlement, industrial plant and physical infrastructure.

In fact, prior to industrial revolution, environmental pollution caused by human activities was generally of a local or regional nature. Today the focus on scientific and political concern is above all on transboundary or global environmental problems. The creation of international environmental regime to regulate individual environmental problems is in general term, an adequate approach to dealing with such problem, though international regimes also have their weak points, particularly since they often lack provision on dealing with non-complying countries. If each and every international regime builds up its own institutional approaches like secretariat, conference of the parties, advisory boards then this could lead to fragmentation and discrimination of developing countries. Thanks to their low capacity as regards funding and manpower, these countries are often neither able to participate in the conferences nor in a position to provide sufficient support and funding to implement the signed environmental regime. Agenda 21 adopted in Rio, underline in chapter 28 the role of municipalities in implementing sustainable development.

For thousands of years, people worried most about the health of individuals, including injuries fights or wars, periodic famine, vector borne disease and accidents. The industrial revolution brought some relieve waste and water treatment for example, reduced the incidence of water borne disease but new technologies generated new threats, ranging from toxic industrial chemical to global transportation system that spread infectious diseases and exposed individuals to greater variety of disease[3].

Liability and state responsibility rules determine whether the polluter pays principle is a principle of consequence in international environment law or if it is just a principle that hardly applies in practice[4]. Most international liability regime channel liability to the person who is in control of an environmentally damaging activity. In the case of oil pollution and the sea of hazardous substances, the person in control is the ship owner. In the case of a nuclear pollution, the operator of a nuclear power plant and in the case of carriage of dangerous goods, it is the carrier.

[1] They include the exploitation of fossils energies and the clearance of forest for firewood to make way for agriculture and industrial use.

[2] They include the accumulation of heavy metal in soils and greenhouse gases in the atmosphere are reaching ever highly concentration.

[3] Sinisa Franjic. (2018). Importance of Environmental Protection on the Global Level. *Scientific Journal of Research and Review,* pp. 1-5. Bosnia and Herzegovina, Europe.

[4] Elli Louka. (2007, November). International Environmental Law: Fairness, Effectiveness, and World Order. *A United Nations Sustainable Development Journal*, *31*(4), pp. 448-449. [122] Barry L. Johnson and Maureen Y. Lichtveld. (2017). *Environmental Policy and Public Health*, CRC Press, Taylor and Francis Groups, p. 3.

1.2 The Concept at the Regional Level

At the Regional level, Africa contribute little to climate change, it will be the continent among the first ones to be hit quite hard by the impacts of various climatic turnovers. This is why, it is fundamental to attack environmental problems in Africa for the future generations and the whole world. So, Africa should turn decisively to the renewable energies and take the head of the African shuffler of the energy revolution to reduce climate change [1]. The democratic Republic of Congo for example fought and is still fighting for the protection of the tropical bits threatened by the industries of the wood in the pond of Congo because it risks losing 40 percent of it bits in the next forty years. That is why Africa needs to fight climate change, deforestation, water pollution and respond positively on the urgent problems connected with environmental protection.

As a matter of fact, Africans unfortunately are consumers of polluted goods and behave like toys in the hands of great economic powers of the world. Consequently, African nature will continue to fall victim of the very power as well. So, if industries in the name of profit pollute everything, there is no equitable and balance management of the environment after Gods will. Management after Gods will require taking into account values, especially, ecological values such as environmental protection, the protection of the soil[2] and subsoil, of forest, of water, of flora and fauna. Fighting pollution, deforestation, erosion is necessary for the African people because God meant them to live a healthy life in most cases, the ecological norms are often sabotaged by the very people who elaborated them because deep within them lies a huge dangerous love for money[3].

In fact, the exploitation of Africa by their former colonial leaders continued after decolonization and thus has contributed gravely to the total destruction of the ecosystem. The political and military crisis in the Create lakes regions (Burundi, Democratic republic of Congo and Rwanda) has terribly affected the environment in this part of Africa. For example, the immigration of Rwanda into Congolese territory in 1994 seriously worsened the environment of the Democratic Republic of Congo as forest and animals of the area where the refuges are living were the first victims.

Research identifies poverty as the main cause and consequence of environmental pollution and degradation in Africa. Poverty is multidimensional and goes beyond the lack of an income to include as stated by the united national development programme, (UNDP) the denial of opportunities and choices to most basic human development to lead to long health, creative life and to enjoy a decent standard of living, freedom, dignity, self-esteem and the respect of others. The protection of the environment is vital to the reduction to poverty in Africa[4]. This is due to the fact that the poor in sub-Saharan Africa, who live predominantly in the rural areas, rely upon the resources obtainable from the immediate environment for substance and hence are severely affected by environmental degradation.

2. Principles of Environmental Law

2.1 The Principle of Common but Differentiated Responsibility

Environmental protection is a common challenge to all nations. Despite the fact they states have different patterns of development, they share a common responsibility in protecting the environment; each according to their means, to wit, some countries may be asked to carry a greater burden in the protection of the environment. This principle entails two elements; the first is that of common responsibility which signifies state effort in protecting the environment. The second element is a manifestation of the divergence in the capacity and efforts of states in environmental protection; for example, industrialized countries are to contribute more global warming than developing countries.

This principle is enshrined in Principle 4 and 7 of The Rio Declaration and formed the basis of the argument advanced by developing countries at conference. They opined that developing countries have special needs which priority

[1] Kalemba Mwambazambi. (2009). A Glance on Environmental Protection in Africa: theological Perspective. *Ethiopia Journal of Environmental Studies and Management*, *2*(3), pp. 19-25.

[2] *Ibid*.

[3] The Good News Bible in 1st Timothy 6: 10 provides that "For the love of money is the root of all evil: which while some coveted after, they have erred from the faith, and pierced themselves through with many sorrows."

[4] Kalemba Mwambazaambi. (2011). The Complexity of Environmental Protection in Sub-Saharan Africa and the Reduction of Poverty. *Ethiopia Journal of Environmental Studies and Management*, *4*, pp. 17-24.

must be accorded to and their participation in the protection of the environment should be for some reward/incentive. This principle ensures environmental protection by making it the subject a common responsibility of states to wit, all states have a common responsibility to protect the environment but their level of involvement and participation differs, some more than others.[1]

2.2 The Principle of Sustainable Development

Although sustainable development is susceptible to somewhat different definitions, the most commonly accepted and cited definition is that of the Brundtland Commission on Environment and Development, which stated in its 1987 report, *Our Common Future*, that "Sustainable development is development that meets the needs of the present without compromising the ability of the future generations to meet their own needs." The parameters of sustainable development are clarified in *Agenda 21* and the *Rio Declaration*. Principle 4 of the Rio Declaration provides that: "In order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it." The National objectives and Directive principles of state policy set out in the 1995 Constitution in regard to the environment state that: "The state shall promote sustainable development and public awareness of the need to manage land, air, water resources in a balanced manner for the present and future generations." [2] "The utilization of natural resources of Uganda shall be managed in such a way to meet the development and environmental needs of the present and future generations of Ugandans and in particular the state shall take all the possible measures to prevent or minimize damage and destruction to land, air and water resources resulting from population pressures and other causes."[3]

The above principles are not contained in the Constitution and are therefore not enforceable as such leaving it to government or whoever is authority to take a subjective decision as to how they are to be applied. The same principles are repeated even in more detail in sections 2 and 5(2)(b) of the National Environment Act (NEA) 2019. It is submitted that whereas the constitution and the NEA recognise the fundamental importance for sustainable development, both fail to set the necessary legal mechanism to ensure it. The people themselves should have been given express authority to ensure the observance of the principle of sustainable development both under the constitution and the NEA. In this way, they would have been provided with a peaceful avenue, for instance the courts of law, with which to have conflicts relating to natural resources were resolved. Leaving the resolution in the hands of the executive escalates conflict because decision making by the executive is more influenced by politics than reason.

An example is the public outrage and demonstration over the Mabira forest give away in 2007.

Lastly, under the principle of sustainable development, are the approaches that take into account long term strategies and those that include the use of environmental and social impact assessment, risk analysis, cost-benefit analysis and natural resource accounting.

2.3 Inter-Generational Equity

Under inter-generational equity, the present generation has the right to use and enjoy resources of the earth but is under an obligation to take into account the long-term impact of its activities and to sustain the resource base and the global environment for the benefit of future generations of human kind. Intergenerational equity is also central to the attainment of sustainable development as resources must be used sparingly if they are exhaustible or must be replenished if possible. The Preamble of the 1995 Constitution of Uganda, Intergenerational equity requires that the present generations exploit or use natural resources in a way that will enable the next/future generations to use the same resources. Some national courts have referred to the rights of future generations in cases before them.

For example, the supreme court of the Republic of the Philippines decided, in the *Minors Oposa Case* (Philippines- *Oposa et. Al. v Fulgencio S. Factoran, Jr.* et. *Al.* G.R. 101083) that, the petitioners could file a class suit, for others of their generation and for the succeeding generations. The court considering the concept of intergenerational responsibility, further stated

[1] *Ibid.*

[2] XXVII(i)

[3] XXVII(ii) Mutesasira Peter Davis – Lecturer Faculty of Law, Uganda Christian University Mukono – 2019.

that every generation has a responsibility to the next to preserve that rhythm and harmony necessary for the full enjoyment of a balanced and healthful ecology.

2.4 The Precautionary Approach/ Principle

The 1982 World Charter for Nature in its principle 11(b) states that: "Activities which are likely to pose significant risk to nature shall be preceded by an exhaustive examination; their proponents shall demonstrate that expected benefits out weigh potential damage to nature, and where potential adverse effects are not fully understood, the activities should not proceed."[1] Although the World Charter for Nature did not make any explicit mention of the precautionary principle, it contained the essential ingredients of what eventually evolved into this contentious legal doctrine. Probably the most accepted articulation of the precautionary approach is principle 15 of the Rio Declaration which states that: "In order to protect the environment, 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 precautionary principle is provided for under sections 4(3), 5(2)(g), 5(2)(i), 5(2)(j) and Pat X[2] of the National Environment Act (NEA) 2019.

The precautionary principle has also been consistently referred to in various international instruments such as: the 1992 Convention on Biological Diversity (CBD); [3] 1992 United Nations Framework Convention on Climate Change (UNFCCC); [4] the 2000 Cartagena Protocol on Biosafety;[5] the 1995 Agreement on Fish Stocks;[6] and the 2000 Convention on the Conservation of Migratory Fish Stocks in the Western and Central Pacific Ocean. [7] The precautionary principle has also been invoked before the courts. The precautionary principle has been invoked before the International Court of Justice (ICJ). In the *ICJ order of 22, September 1995* [8], Judge Weeramantry in his dissenting opinion concluded that the precautionary principle was gaining increasing support as part the international law of the environment.

The European Court of Justice (ECJ) has also adopted the precautionary approach, particularly in respect to environmental risks that pose danger to human health. In the ECJ case *UK V Commission of the EC*[9], the court held that the Commission had not committed manifest error when banning the export of beef during the "mad cow" crisis. The Court said: "At the time when the contested decision was adopted, there was great uncertainty as to the risks posed by live animals, bovine meat and derived products. Where there is uncertainty as to the existence or extent of risks to human health, without having to await the reality and seriousness of those risks to become fully apparent." In the *Southern Bluefin Tuna Case* (New Zealand v Japan; Australia v Japan)[10], the International Tribunal on the Law of the Sea (ITLOS) could not conclusively assess the scientific evidence regarding the provisional measures sought by New Zealand and indeed, the country requested the measures on the basis of the precautionary principle, pending a final settlement of the case. ITLOS found that in the face of scientific uncertainty regarding the measures, action should be take as a measure of urgency to avert further deterioration of the tuna stock. In its decision, the tribunal said that the parties should act with prudence and caution to ensure that effective conservation measures are taken to prevent serious harm to the stock of southern blue fin tuna.

2.5 Common but Differentiated Responsibilities

This principle is explicitly elaborated by Principle 7 of the Rio Declaration which states that: "States shall cooperate in a spirit of global partnership to conserve, protect and restore the health and integrity of the earth's ecosystem. In view to the different contributions to global environmental degradation, states have

[1] This signified a deviation from the traditional tort law liability principles that required proof of causation as the basis for awarding damages. Even in international law, the link between cause and defect had been articulated in the trial smelter Arbitration between the United States and Canada. That case became a leading precedent on international responsibility, the Tribunal required proof of "substantial injury" demonstrated by clear and convincing evidence.

[2] sections 110-116 on EIA.

[3] Preamble.

[4] Article 3(3), Mutesasira Peter Davis – Lecturer Faculty of Law, Uganda Christian University Mukono – 2019.

[5] Articles 1, 10 and 11.

[6] Article 5(c), 6 and Annex II.

[7] Article 5(c)

[8] At Pg. 342.

[9] ICJ Case C-180/96.

[10] Case No. 3 and 4, ITLOS, 1999.

common but differentiated responsibilities. The developed countries acknowledge the responsibility that they bear in the international pursuit of sustainable development in view of the pressures their societies place on the global environment and the technologies and financial resources they command." This principle takes into account the differing circumstances, particularly in each state's contribution to the creation of environmental problems and in its ability to prevent, reduce and control them. States whose societies have in the past imposed, or currently impose, a disproportionate pressure on the global environment and which command relatively high levels of technological and financial resources bear a proportionally higher degree of responsibility in the international pursuit of sustainable development.

In practical terms, the principle of common but differentiated responsibilities is translated into the explicit recognition that different standards, delayed compliance time tables or less stringent commitments may be appropriate for different countries, to encourage the universal participation and equity. According to the principle of common but differentiated responsibilities, developed countries bear a special burden of responsibility in reducing and eliminating unsustainable patterns of production and consumption and in contributing to capacity building in developing countries, *inter alia* by providing financial assistance and access to environmentally sound technology. In particular, developed countries should play a leading role and assume the primary responsibility in matters of relevance to sustainable development.

A number of international agreements have taken into account the principle of common but differentiated responsibilities. These include the 1992 Climate Change Convention, [1] the 1992 Convention on Biological Diversity, [2] 1994 Desertification Convention, [3] and the 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter of 1992.[4]

2.6 The Prevention Principle

Experience and scientific expertise demonstrate that prevention of environmental harm should be the "*Golden Rule*" for the environment, for both ecological and economic reasons. It is frequently impossible to remedy environmental injury: the extinction of species of fauna and flora, erosion, loss of human life and the dumping of persistent pollutants into the sea, for example, create irreversible situations. Even when harm is remediable, the costs of rehabilitation are often prohibitive. An obligation of prevention also emerges from international responsibility not to cause significant damage to the environment extra-territorially. The prevention principle is provided for under sections 3(1), 3(2), 3(5)(a), 3(5)(f), 5(2)(j), 5(2)(p)(i), 70, and 78 of the National Environment Act (NEA) 2019. One obligation that flows from the concept of prevention is prior assessment of potentially harmful activities, i.e., the EIA process. Other preventive mechanisms include: monitoring, notification, and exchange of information, all of which are obligations in almost all recent environmental agreements. International Agreements that provide for the prevention principle include: the United Nations Convention on the Law of Non-Navigational Uses of International Watercourses; [5] 1976 Convention on the Conservation of Nature in the South Pacific; [6] and the Convention on Biological Diversity.[7] In fact, the objective of most international environmental instruments is to prevent environmental harm, whether they concern the pollution of the sea, inland waters, the atmosphere, soil or the protection of human life or living resources. Only a relatively few international instruments use other approaches, such as the traditional principle of state responsibility or direct compensation of the activities.

3. Approaches to Environmental Protection

For environmental protection to become a reality, it is important for societies to develop each of these areas that, together, will inform and drive environmental decisions. [8] There have been three approaches to environmental protection,

1 Article 4 and 12.

2 Article 5 and 6.

3 Article 5 and 6.

4 Article 26 Mutesasira Peter Davis – Lecturer Faculty of Law, Uganda Christian University Mukono – 2019.

5 Article 32.

6 Article V(4).

7 Article 14 (1) (a) and (b).

8 Solomon, U.U. (2010). A detailed look at the three disciplines, environmental ethics, law and education to determine which plays the most critical role in environmental enhancement and protection. *Environ Dev Sustain*, 12, 1069–1080.

to wit:

3.1 Voluntary Environmental Agreements

In developed nations, these agreements provide a platform for companies to be recognized as moving beyond the minimum regulatory standards and therefore support the development of best practice in environmental protection. [1] However, in most developing countries, they are commonly used to remedy significant levels of non-compliance with mandatory regulations, which in other hand, helps to build environmental management capacity. The disadvantages associated with them is inability of the developing countries to baseline data, targets, monitoring and reporting systems that would enable them to evaluate the effectiveness of their use.[2]

3.2 Ecosystem Approach

The purpose of this approach is to consider the complex interrelationship of an entire ecosystem in decision making rather than simply responding to specific issues and challenges. Here, a broad range of stakeholders are involved in the planning and decision making processes. For instance, all relevant governmental departments, representatives of industry, environmental groups and the community would be involved, and this leads to exchange of information, development of conflict resolution strategies and improved regional conservation.

4. Challenges and Recommendation

Despite Cameroon's efforts to enhance environmental protection, the problem of persistent deforestation serves as a huge setback to her strives. The increasing deforestation in Cameroon can be attributed to some factors, including: demographics (that is, population growth and pressure), economic changes (especially market growth and economic structures), just to mention a few. Statistics show that deforestation decreased with some oscillation until 2014, however, it witnesses an increase again more recently.[3] It is recorded that, in 2010, Cameroon had a natural forest that extended to 30.4Mha, covering over 66% of its land area. However, in 2023, she lost 167Kha of her natural forest, which absorbs about 150Mt of carbon dioxide emitted.[4] Between the years 2015 to 2018, deforestation is said to have accounted for the loss of between 40.000 to 80.000 hectares of primary forest on an annual basis.[5]

Hence, with the increasing deforestation in Cameroon, the success rate of her fight to foster environmental protection lessened. These large numbers of trees which are cut down serve as sinks for large quantities of carbon dioxide emitted. Thus, when fallen, the huge quantities of carbon dioxide, which they could have absorbed will find its way into the atmosphere, where it will entrap heat from the sun and radiate it to the earth surface, consequently resulting in environmental degradation.

Despite the severity and high degree of threat of environmentally unfriendly behaviours, the penalties often attached to environmental crimes do not reflect the dangers they cause. For example, the act of logging beyond the period or quantity granted is punishable with just a fine of 5.000 to 50.000 FCFA or imprisonment for up to ten days or both such imprisonment and fine.[6] Similarly, the unauthorized felling of protected trees is punishable with a fine from 50.000 to 200.000 FCFA or imprisonment of for twenty days or both such imprisonment and fine.[7]

In *Ministry of Environment and Forestry v. Tame Soumedjong Henry and SOTRAMILK Ltd*,[8] the respondents were engaged in the production of milk, they demonstrated a number of environmentally unfriendly behaviours. They discharged milky substances into streams, burned plastic yoghurt cases and other waste into the air just to mention a few. In response, the applicant prayed the Court to make the following orders: (1) An order restraining the respondent from polluting natural waters by discharging milky waste or other effluent into streams. (2) An order restraining the respondents from further polluting the

[1] Karamanos P. (2010). Voluntary Environmental Agreements: Evolution and Definition of a New Environmental Policy Approach. *Journal of Environmental Planning and Management*, 44(1), 67-84.

[2] *Ibid.*

[3] WWF, Deforestation Front; Cameroon, available at https://wwfint.awsassets.panda.org/downloads/deforestation_fronts_factsheet_cameroon.pdf, accessed on 14/04/2025.

[4] GFW, Cameroon Deforestation Rates and Statistics, available online at https://www.globalforestwatch.org, accessed on 14/04/2025.

[5] EUREDD Facility, Cameroon, available online at https://euredd.efi.int/countries/cameroon/, accessed on 14/04/2025.

[6] See Section 154 of the Law N0. 94/01 of 20 January 1994 to Lay Down Forestry, Wildlife and Fisheries Regulations.

[7] Section 154 of the Law N0.94/01 of 20 January 1994 to Lay Down Forestry, Wildlife and Fisheries Regulations.

[8] CFIBa/145CM/02-03.

atmosphere by burning plastic yoghurt cases and other waste into the open air; (3) An order restraining the respondent from further polluting the environment in general or perpetrating any environmentally harmful activities in the operation of SOTRAMILK Ltd (Milk Processing Factory) at Nkwen, Bamenda; (4) An order requesting the respondent to rehabilitate the polluted areas with the applicants supervision and a report to be sent to the Court by the applicant to that effect; (5) and for such further and other orders as the Court may deem fit to make in the circumstances.

The Court on its part upon finding the actions of the respondents harmful and contravening to the law, made the following two orders, (1) that the respondent from then restrained from further discharge of milky waste or industrial sewage into the stream. (2) And that the respondent takes steps to rehabilitate the polluted areas near the factory under the strict supervision of the applicant. The cost of rehabilitation was borne by the respondents. Concerning the applicant's prayer 2, the motion was rejected by the Court for failing to propose a better option of eliminating the said plastic cases apart from burning. Prayer 3 was as well rejected for being so wide as to render the respondent vulnerable to its violation at every minute of their operation. Thus, as the Court noted, if prayer 3 was granted, it would be tantamount to telling the respondent to close down the factory which is irrational. The decisions of the Court in the latter case are, however, commendable. Despite that, considering the degree of threat which environmental crimes pose, one would have expected to see a more vigorous ruling from the Court in such cases. Therefore, the inadequacy of penalties provided for perpetrators of environmentally harmful behaviour contributes to the setbacks to the fight against environmental degradation by Cameroon.

The fragmented nature of some environmental legislation in Cameroon amount to huge setbacks to the success of her fight against environmental degradation. A number of environmental statutes are made subject to implementation decrees from the President or Prime Minister, which take a long time to be made. Therefore, such legislations remain unimplemented until their implementation decrees are made. For example, pursuant to Section 17 of Law No. 96/12 of 5th August 1996 Relating to Environmental Management, the promoter or owner of any development, project equipment or labour, which is likely to endanger the environment, is obliged to carry out an environmental impact assessment. Whosoever defaults or breaches the provision will be punished with a fine from two million FCFA to five million FCFA with imprisonment of from six months to two years.[1] However, based on Section 17(4) of same law, the terms and conditions for implementing the provisions on impact assessment shall be laid down by an enabling decree. It is however unfortunate that decree is still awaited, thus making the penal provisions unenforceable.[2]

The challenge of fragmented legislations is also evident in a number of other environmental legislations. For example, Law No. 2003/006 of 21 April 2003 to lay down Safety Regulations Governing Modern Biotechnology in Cameroon stipulates that 'the modalities for inspection and controls shall be laid down by regulations.'[3] Therefore, pursuant to that provision, inspectors or controllers cannot work under the Biosafety law except the enabling legislations are made available. It is heart-breaking that this enabling legislation is still awaited. Despite that, Sections 56, 60 to 64 provide a range of environmental offences to be investigated and prosecuted by inspectors who have been sworn. This problem of fragmented legislations is also evident in the Mining Code, the Water Law and 1994 Forestry, Wildlife and Fisheries Regulations. [4] Conclusively, the impracticable nature of these environmental laws owing to fragmentation of legislations serves as a huge setback to the success of Cameroon's fight against climate change.

This paper strongly recommends; thus, one of the most pressing challenges identified in this study is the weak institutional capacity of environmental regulatory bodies. Ministries such as the Ministry of Environment, Nature Protection and Sustainable Development

[1] See Section 79 of Law No. 96/12 of 5th August 1996 Relating to Environmental Management.

[2] See Sama Nchunu Justice, Criminal Law and Environment, Prosecutors, Inspectors and NGOS in Cameroon, available at https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.608.1093&rep1&type=pdf , accessed on 15/04/2025.

[3] See Section 34(3) of Law No. 2003/006 of 21 April 2003 to Lay Down Safety Regulations Governing Modern Biotechnology in Cameroon.

[4] SamaNchunu Justice, *op.cit*.

(MINEPDED) lack adequate technical expertise, infrastructure, and financial resources to effectively implement and enforce environmental laws. It is therefore recommended that the government increase budgetary allocations to MINEPDED and related agencies, invest in training and equipping enforcement personnel, and decentralize environmental governance functions to regional and local offices. This will not only improve responsiveness but also ensure the integration of local realities into national environmental strategies.

In addition, Enhance Enforcement Mechanisms. Cameroon has a commendable legal framework that incorporates international environmental norms, but enforcement remains largely ineffective. The government must prioritize the operationalization of existing laws by empowering the judiciary and enforcement bodies with clear guidelines, independence, and the authority to hold both state and non-state actors accountable for environmental violations. Environmental courts or dedicated environmental units within the judiciary should be established to accelerate the handling of environmental cases. Additionally, sanctions for environmental offenses should be effectively imposed and publicized to deter further infractions.

Also, Institutionalize Community-Based Environmental Protection. Local communities are the frontline custodians of Cameroon's natural resources. Yet, their role is often informal and under-recognized by statutory law. To enhance compliance, the government should institutionalize community-based natural resource management (CBNRM) systems by granting formal legal recognition to traditional environmental governance structures. Participatory mechanisms should be developed to involve communities in environmental decision-making, planning, and enforcement. Local knowledge systems, particularly those grounded in sustainable customary practices, should be integrated into national strategies, with safeguards to prevent misuse or elite capture.

1) Furthermore, Promote Environmental Education and Public Awareness

The study reveals a significant gap in public understanding of environmental laws, rights, and responsibilities. Effective compliance cannot occur in a vacuum of awareness. Government institutions, in collaboration with NGOs, civil society, and educational institutions, should implement nationwide environmental education programs. These programs should target schools, universities, the media, and community forums, aiming to instill a culture of environmental responsibility. Civic education campaigns should emphasize the link between environmental health, human rights, and sustainable development, empowering citizens to monitor and demand environmental accountability.

2) Again, Support Civil Society and NGOs as Compliance Partners

Civil society organizations and NGOs play a crucial role in monitoring, advocacy, and bridging the gap between policy and implementation. Their involvement should be formally recognized and supported through legal frameworks that guarantee access to environmental information, participation in environmental impact assessments (EIAs), and access to justice. The government should also consider providing technical or financial support to credible NGOs working on environmental protection, and ensure that their operations are not hindered by administrative or political constraints. Multi-stakeholder forums should be created to facilitate dialogue between government, civil society, and international partners.

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