

The Effects of Climate Change on the Existing Environmental Laws and the Impact on Natural Resources

Sapard Vincent-de Paul Mozes Mulumba Ngandu Tshimankinda Kalala*

The University of The Gambia, Special Advisor to the Vice-Chancellor, Lecturer of Natural Resources Law, Policies & Conventions in School of Environment & Agricultural science- Senior Associate Partner with Lex Fori Law Chambers, Kanifing. Greater Banjul, The Gambia
Email: spkalala@gmail.com, svpkalala@utg.edu.gm

Abstract

Sustainable development is meeting the need of the present societal setting without jeopardizing the stability of the future generation through the exploitation of the current elements of survival such as natural resources and destruction of the ecosystem. Developed countries have been spotted to take advantage of both developing countries and underdeveloped countries because they own personnel and equipment that can be useful in the extraction of natural resources. Aspects of humanity understand the need for protecting the environment and natural resources through different environmental laws that aid in governing efficacy in human nature coexistence. Moreover, the efficacy of good governance across developing countries depends on the structure of the governing body and the economic resources available to withstand the population growth within the region. Also, developing countries are on the verge of declining control and management of efficient environment policies that align with the management of the current levels of climatic changes. Some of the concerns covered under environmental laws incorporate different types of pollution, the sustainability of resources such as forestry, minerals, and water, and certain principles and policies related to environmental concerns. Poverty encroachment in developing countries has been steered by the encroachment of land degradation, pollution, and other environmental crisis. In many regions across developing countries, there exists a pressure exerted on the exploitation of natural resources arising from the increased population and meeting the global demand of the ever-growing market. With the continued climatic changes across the world, developing countries are experiencing strains to maintain the ever rising heat on implementation of environmental laws and natural resources policies. The research discusses the effects of climatic changes on the existing environmental laws and impact on natural resource policies.

* Corresponding author.

Keywords: Environment law standards; Natural Resources Policies; Remedies to Climate Change; LDC Environmental Policies; positivity in protecting the environment; Natural Resources Management in LDC Countries; Environment as tool of Sustainable Development; Natural Resources Law Good governance and Natural Resources, Environment Governance; steps to Environment Governance; safeguarding the future of the environment; Natural Resources Policies Enhancement; Environment Law Applied Definition; Natural Resources Law and Policies; Environment Governance Sustainability; International Environmental Law Adaptability; Complexity of Environmental Laws; Environment Law Efficacy; Preserving Natural Resources for the Future Generation.

1. Today's Scope of Environmental Laws

There is no doubt that the World as we know it has been aware of its environment far longer than there have been laws to protect environments. Today's Climate change is causing significant and far-reaching impacts on the LDC as well as on advanced industrialized countries.

The Environmental and natural resources law is always known to be an amalgamation of regulations, statutes, local, national and international legislation, and treaties designed to protect the environment from damage and to explain the legal consequences of such damage towards governments, corporations, other private entities and individuals. This definition cannot only be limited by government legislation alone, because it can be at a certain extend attributed to the desire by civil partners, organizations, and their regulators to work towards for improving ethical principles by setting regulations and industry standards for operating businesses in a determined and specific geographic, professional or industrial area. These are just quasi laws as such within a regulatory framework, rather than laws conducted for the good of the environment and the local population.

The climate across the globe has been gradually changing due to the increased human activities and population across different countries in the world. However, the gradual climatic changes that were experienced over two decades ago are now drastically increasing with activities such as increased urbanization, deforestation, pollution, and industrialization among human activities. On the other hand, humankind has been at the forefront of exploiting natural resources, especially risking the stability of future generations and the environmental status to support human life effectively. Developed countries have been spotted to take advantage of both developing countries and underdeveloped countries because they own personnel and equipment that can be useful in the extraction of natural resources. While the future of developing countries is being jeopardized due to environmental degradation, most developed countries focus on securing their own citizens and nations.

2. Understanding the need for protecting the environment and natural resources

Certain aspects of humanity understand the need for protecting the environment and natural resources through different environmental laws that aid in governing efficacy in human nature coexistence. Environmental and natural resources laws are legislations, regulations, and statutes designed for the protection of the environment from damages and offer an in-depth explanation of the legal consequences that befall offenders causing damages to the ecosystem [1]. Natural resource laws attempt to control the rate of environmental pollution and

exploitation of natural resources within a designed framework that supports efficacy in the sustainability of both social and economic development. Developing countries are on the verge of being affected by the current and future climatic change phenomena because of the need to grow economically and maintain and stern relationship with other developed countries. Some of the concerns covered under environmental laws incorporate different types of pollution, the sustainability of resources such as forestry, minerals, and water, and certain principles and policies related to environmental concerns [2]. The nature of the environment is a common phenomenon that affects the human race's entire future. Therefore, developing countries need to incorporate different solutions on the laws, policies, and regulations that aid in sustaining the positivity in protecting the environment. However, the beginning of safeguarding the future of the environment starts from the model of governance within these countries [3]. However, corruption and poor governance have been at the forefront for the exploitation of natural resources and declining to meet the standards of environmental protection stated within environmental policies and laws. There are limited single-handed methods of governance that could provide efficacy to a country and promote environmental management processes. Good governance among developing countries is a vital concern that needs to be addressed before embarking on the management of the environment. Political struggles affect the possibilities of enacting new laws, policies, and regulations that could secure the future of the environment since these rivalries affect both economic investments and social relations. Dhaoui describes good governance as a set of qualitative characteristics in relation to rulemaking and institutional fundamentals [4]. Promoting good governance across developing countries to secure the future of the environment and curb continued climatic change requires transparency in the mode of the ruling, public access to information, accountability, and enhanced participation of the citizens within the country [5]. Developed countries have been at the forefront to ensure that policies and regulations are discussed and incorporated into the livelihoods of the citizens to protect the environment. These treaties, however, may seem effective for the protection of the environment across developing countries through the process of enacting these policies are yet to be considered. Implementing certain policies on developing countries impact economic growth and risk human development plans and prosperity of the nation [6]. Also, poverty encroachment in developing countries has been steered by the encroachment of land degradation, pollution, and other environmental crisis. In many regions across developing countries, there exists a pressure exerted on the exploitation of natural resources arising from the increased population and meeting the global demand of the ever-growing market.

3. Necessity of Clear Laws bonding individuals to their Environment

There are two distinct environmental laws that stand out in creating preservation and a relationship between humankind and their relationship with the environment. The first law encompasses the protection of personal and property right which include the laws controlling pollution. The second environmental law broadens on the notion of preservation of places including natural forests, landmarks, and landscapes. However, developing countries cannot fulfill all the requirements of these laws because of the discontinuity between the governing body and the people. Good governance has proven to be a challenge in developing countries as political and economic instabilities emerging as the main courses of environmental destruction [7]. Moreover, the efficacy of good governance across developing countries depends on the structure of the governing body and the economic resources available to withstand the population growth within the region. Preservation of the environment

requires the use of both decentralized and centralized structures of governance [8]. Considering that both structures of governance have pros and cons, a specific governing body should determine the suitable criteria that can be used within a country and empower the people to work on environmental preservations. There is much pressure inserted on forests and natural resources among developing countries to support the ever-rising population and sustain economic strains. Reducing pressure on these resources and offering alternatives to the citizens is an effective method to implement environmental laws without violation of other prospects of human livelihood. Corruption is a major outbreak across developing countries, and the impacts subjects by the inefficiencies caused by this phenomenon are tragic. Law enforcement agencies across developing countries face different types of corruption [11]. Besides, most citizens are tangled by corruption, such that they are willing to pay the price for destroying the environment than they are willing to devote to saving the planet. Hence, there is a lack of value of good governance in the protection of the environment across these countries. Often, in these countries, corruption begins from top governing agencies and spreads across the entire nation; thus, finding suitable criteria to solve environmental problems is minimal. Good governance holds the key to environmental sustainability, social sustainability, and economic sustainability within a country. Political clashes and violence are other hindrances to the management of the environment. Violence affects the critical aspects of a nation, and recovering from these losses is costly and imposes a strain on the economy of the nation. Developing countries, especially in Africa, have been subjects to political clashes risking the sustainability of an effective environment. Offering aid to these countries to undergo a smooth transition during political activities helps in managing the impact of destroying the environment [3]. Through this, the government can practice good governance by implementing clear and fair environmental laws to citizens. Besides, working with the United Nations promotes the development of sturdy laws and the empowerment of bodies that enforce these laws, regulations, and policies. Besides, within a peaceful environment, it is easier for the government to concentrate on the management of the environment through the inclusion of different factors and institutes to aid in the process compared to when there are political unrests [5]. Besides, incorporating external sources in the quest of achieving proper environmental regulations is easier under a peaceful environment. An important factor to consider when addressing changes to the laws and policies affecting the preservation of the environment is stated within the constitution of a nation. These constitutional frameworks discuss state measures for their adaptations to climate changes and the duty of the state and the citizens to protect the environment. However, these constitutional frameworks across developing countries might be ineffective in the preservation of the environment considering the rate at which degradation of the environment and exploitation of natural resource is occurring. On the other hand, the government should also consider civil rights when discussing constitutional policies. Amendments to the constitution within the context affecting environmental protection and law is an important strategy to stiffen loose-ends and work towards a prosperous future.

4. Other Key Governance Ingredients

Accountability and transparency are other key steps that should be considered when addressing mending the destruction of the environment in developing countries [12; 27]. Urbanization and industrialization are among the key factors that promote environmental damage. The contemporary society is involved in achieving economic benefits with little interest directed towards protection and preservation of the environment. Besides,

the government is a key player that is expected by the population to protect the population from destroying the environment. Leaders are reluctant to enforce laws and regulations on industries and individuals who abuse the environment. In turn, there is a continued degradation of the environment and exploitation of natural resources at the expense of the nation. Industries, on the other hand, should aim for transparency on their actions towards the environment and act responsibly and with accountability on any action taken against the preservation of environmental laws [13; 25]. The judicial arm of the government should be on the watch for any polluters and issue a reasonable punishment to serve as a warning to future offenders. Environmental damage is a global issue that affects most of the developing countries across different continents in the world. With the rapid rising climatic changes, the effects are being experienced in both developed and developing countries [10]. Therefore, global governance techniques should be employed in the implementation of strategies to manage environmental risks. Even though global organizations are involved in role-playing to control environmental damage effectively, the implementation of these policies should be in the hands of developing country's governments and citizens. The government and responsible bodies within the country understand the social, political, and economic status and the rate through which the projects will be successful in delivering desirable outcomes [9]. However, global organizations should provide sufficient information to the developing countries to reduce the cons related to the implementation process.

5. The Humanitarian Concerns

Addressing environmental damages across developing countries requires financial aid that is often high to manage and maintain throughout the process of preservation. Developing countries consider other sectors of life as the first priority, such as eradicating poverty, providing shelter, and creation of jobs compared to the protection of the environment. Furthermore, most of these countries suffer from debts owed to the World Bank and other developed states [21]. Thus, introducing new policies and regulations towards environmental preservations suggests that either the country will need to borrow money to meet the demands of nature and sustain public life at the same, or cut the cost of other essentials in the country. Therefore, it is the mandated duty of international environmental organizations to step in and offer a helping hand to ensure that the future generation is preserved in a conducive living environment. Besides, developed countries need to step out of comfort and aid in securing our future. With the continued changes in the climate, enacting environmental laws is becoming expensive for developing countries as financial strains and political clashes are working against the development of a healthy environment. The changes in climate forced the governments in developing countries to adjust the budget each financial year to ensure that the areas affected by climate change, the citizens receive aid [22; 26]. For instance, in Africa, most countries in the horn of Africa are experiencing a rapid encroachment of deserts and little rainfalls leading to famine. Thus, various governments around the region of Horn of Africa have to enact mechanisms that cater to the health of all the communities. Besides, the increase in population across regions covered with forests and water sources has forced the increase in a forest clearing to create space for settlement. The leader however, is reluctant to set aside regions for relocation so as to preserve the forest and limit the effects of climatic changes. The effective criteria that can be used to manage environmental changes are through securing rights and sharing power and responsibility. Through these criteria, it is easier for the government of different developing countries and their citizens to interact and develop a relationship that is resourceful in protecting the environment and practicing the environment laws. Securing rights involves the

government under various ministries take up responsibilities of protecting the interests of the community through a transparent leadership model [14]. Securing rights involves inclusive of all the individuals including the leaders to be accountable for any mistakes or violation of the law. Developing countries' leaders are often seen as above the law citizens in that the guiding principles that aid in guiding the community towards better development are in exclusion of their practices. Therefore, there is a developed perspective that leaders can violate rules and regulations with being accountable for their actions. On the other hand, sharing power and responsibilities across developing countries is an effective criterion for protecting and preserving environmental laws and curbing the continuity of climate change [14; 26]. Governance is essential for establishing a relationship with the community. However, good governance is the foundation of promoting essential values towards the conservation of nature and achievement of the global sustainability goal. Besides, good governance benefits both the people and the protection of biodiversity through strengthening the protection of natural resources. Sharing power can be achieved through assigning local governing bodies and non-governmental organizations with motives for the preservation of the environment. "Natural resource governance refers to the norms, institutions and processes that determine how power and responsibilities over natural resources are exercised, how decisions are taken, and how citizens, indigenous peoples and local communities participate in and benefit from the management of natural resources," [14; 30].

6. Rule of Law and Peace as Cornerstones to Sustainable Development

Environmental management and peace are cross-cutting elements that aid in the promotion of abiding by environmental laws and proper management of natural resources. In that, building an effective mode of governance can result in the reduction of conflict ensuring improved security within the country. Through the reduction of conflict and conflict potentials within the community, it is easier to strengthen environmental security and lay a ground for the endurance for both social and environmental laws sustainability. Besides, with good governance within a developing county, exploitation of natural resources can be effectively managed [15; 20]. Involvement of international experts and volunteer-driven network provide a platform for leaders to share their capabilities and introduce mechanisms that can be used towards maintaining a peaceful leadership model and work on the essential sectors of preserving the environment. It is evidenced in the international scene that the past forty to fifty years show that the rule of law at national and international levels can make a significant contribution towards forging an enduring partnership between the environment and development founded on ecological and social sustainability [16; 31]. Sustainable development is meeting the need of the present societal setting without jeopardizing the stability of the future generation through the exploitation of the current elements of survival such as natural resources and destruction of the ecosystem. Besides, sustainable development has been given both political and legal definitions as they work as the cornerstone towards the protection of the environment, and the interaction between societal members and institutions [17; 19]. Thus, developing countries need to observe all the spectrum of sustainable development towards enacting and implementing environmental laws and preserving natural resources policies. Part of this problem stems from the demands placed upon senior officials who have to deal with innumerable foreign delegations, endless calls to represent their countries in international meetings and complex negotiations with donors who are trying to help the community through efficacy in the management of the environment [18; 32]. However, the developing country experience continued strains in funds to accommodate all the essentials needed for effective governance

[20]. Leaders in developing countries spend most of their term serving the people through reaching for treaties from developed countries that could help them better develop their communities. In this case, the community members are left to exploit the natural resources and degrade the environment as a way of making their livelihood even better. Corruption is another factor that imposes strains in achieving efficacy in environmental preservation and protection of natural resources. Political instability sublimed with corruption in developing countries causes' financial heist on the funds for enforcing environmental laws. Thus, climatic changes remain to be a topic of discussion in most developing countries with little effort being made to ensure that the environment is preserved and the community members are made aware of the effects.

7. Conclusion

In summary, climatic change is a global phenomenon that affects both developing countries and developed countries in general. However, developing countries are on the verge of declining control and management of efficient environment policies that align with the management of the current levels of climatic changes. Consequently, it is possible to manage these damages caused by nature and its resources with the implementation of the correct methodology. Effective management of environmental degradation and climatic change depends on good governance through accountability and transparency, addressing corruption, financial support, curbing political unrest, and involvement of global organizations. However, environment law has always been in the crossroads of controversy between the necessity of government regulations and the world citizenry encouragement for private interests and individuals to self-regulate and do the right thing for the good of everyone and the planet earth. Whichever way we look at it, environmental law and good governance of natural resources affects all of us, individual health, business activity, geographical sustainability, and the importance of preserving our planet for the future generations.

References

- [1] M. Mason, "Environmental Science," *Environmentalscience.org*, 2014. [Online]. Available: <https://www.environmentalscience.org/environmental-law>.
- [2] F. Cheever and C. I. Campbell-Mohn, "Environmental law: Sustainable Development," *Encyclopædia Britannica*. 2019.
- [3] I. Stojanović, J. Ateljević, and R. S. Stević, "Good Governance as a Tool of Sustainable Development," *European Journal of Sustainable Development*, vol. 5, no. 4, May 2016.
- [4] I. Dhaoui, "Good governance for sustainable development - Munich Personal RePEc Archive," *Unimuenchen.de*, 2019.
- [5] UNU-IAS, "Integrating the governance into the sustainable development Goals," *UNU-IAS Policy Brief*, no. 3, 2015.
- [6] G. Ö. Wingqvist, O. Drakenberg, D. Slunge, M. Sjöstedt, and A. Ekblom, "The Role of Governance for

- Improved Environmental Outcomes,” 2012.
- [7] L. D. Guruswamy and M. Z. Leach, *International Environmental Law in a Nutshell*. St. Paul: West Academic Publishing, 2017.
- [8] Encyclopedia.com, “Environmental Policy and Law,” Encyclopedia.com, 2012. [Online]. Available: <https://www.encyclopedia.com/science/encyclopedias-almanacs-transcripts-and-maps/environmental-policy-and-law>. [Accessed: 12-Jan-2020].
- [9] M. Gies, J. Albrecht, and J. Sienkiewicz, “Legal Aspects of Climate Change Adaptation,” *Advances in Global Change Research*, pp. 135–158, Dec. 2013.
- [10] J. Ruhl, “ARTICLES CLIMATE CHANGE ADAPTATION AND THE STRUCTURAL TRANSFORMATION OF ENVIRONMENTAL LAW,” 2015.
- [11] M. Zinn, “Adapting to Climate Change: Environmental Law in a Warmer World,” 2015.
- [12] World Health Organization, “Chapter 5: Good governance in the process of public health law reform SUMMARY POINTS,” 2016.
- [13] Mercycorp, “Guide to Good Governance Programming,” 2014.
- [14] Natural Resource Governance Framework, “Natural Resource Governance Framework,” IUCN, 15-Feb-2016. [Online]. Available: <https://www.iucn.org/commissions/commission-environmental-economic-and-social-policy/our-work/knowledge-baskets/natural-resource-governance>. [Accessed: 12-Jan-2020].
- [15] E. Hsiao and G. Saintz, “Commission on Environmental, Economic and Social Policy: Environment and Peace,” IUCN, 22-Feb-2017. [Online]. Available: <https://www.iucn.org/commissions/commission-environmental-economic-and-social-policy/our-work/environment-and-peace>. [Accessed: 12-Jan-2020].
- [16] UNEP, *The rule of law and the environment*. New York: United Nations Publication, 2013.
- [17] M. Elvira Méndez-Pinedo and J. Muñoz, “Natural Resources Governance as a Way to Achieve Prosperity of Nations facing the 21st Century Challenges,” 2013.
- [18] F. Bojang, “Promoting good governance in natural resource management in Africa,” *Nature and Faune*, vol. 27, no. 2, pp. 1–75, 2013.
- [19] M. Chêne, “Natural resource management transparency and governance,” U4 Anti-Corruption Resource Centre, 2017. [Online]. Available: <https://www.u4.no/publications/natural-resource-management-transparency-and-governance>. [Accessed: 12-Jan-2020].

- [20] W. O. Ochola, P. C. Sanginga, and I. Bekalo, "Managing Natural Resources for Development in Africa: A Resource Book," Idrc.ca, 2015. [Online]. Available: <https://www.idrc.ca/sites/default/files/openebooks/506-9/index.html>.
- [21] F. Biermann et al., "Integrating Governance into the Sustainable Development Goals Policy Brief #3," 2015.
- [22] M. Howes et al., "Environmental Sustainability: A Case of Policy Implementation Failure?," *Sustainability*, vol. 9, no. 2, p. 165, Jan. 2017.
- [23] M. Bonilla, E. Fernández Fernández, S. Jemaiel, R. Mwebaza, and D. Zhandayeva, "Environmental Law in Developing Countries Selected Issues Vol. II," 2017.
- [24] R. V. Percival, C. H. Schroeder, A. S. Miller, and J. P. Leape, *Environmental regulation : law, science, and policy*. New York: Wolters Kluwer, 2018.
- [25] E C H Keskitalo and B. L. Preston, *Research handbook on climate change adaptation policy*. Cheltenham, Uk: Edward Elgar Publishing, 2019.
- [26] R. Andersen, *Governing Agrobiodiversity*. Routledge, 2016.
- [27] P. G. Harris, "International Environmental Justice: A North South Dimension [review]," *Global Environmental Politics*, vol. 5, no. 1, pp. 136–138, 2019.
- [28] R. Anand, *International environmental justice : a North-South dimension*. Aldershot, England: Ashgate, 2016.
- [29] P. G. Fredriksson and J. R. Wollscheid, "Legal origins and environmental policies: evidence from OECD and developing countries," *Letters in Spatial and Resource Sciences*, vol. 11, no. 3, pp. 369–375, Oct. 2018.
- [30] W. Longhofer, E. Schofer, N. Miric, and D. J. Frank, "NGOs, INGOs, and Environmental Policy Reform, 1970–2010," *Social Forces*, vol. 94, no. 4, pp. 1743–1768, Mar. 2016.
- [31] Philippe Cullet, *Differential treatment in international environmental law*. New York: Routledge, 2016.
- [32] IUCN, "Problems in enforcing environmental law and ensuring environmental rights for legal aid beneficiaries," IUCN, 19-May-2016. [Online]. Available: <https://www.iucn.org/content/problems-enforcing-environmental-law-and-ensuring-environmental-rights-legal-aid>. [Accessed: 23-Sep-2019].