May 28, 2021.

1ST AFRICAN ENVIRONMENTAL LAW CONFERENCE

BY THE

AFRICAN ENVIRONMENT LAW CONFERENCE (AELC)

ENVIRONMENTAL LAW CENTER OF THE FACULTY OF LAW, UNIVERSITY OF COLOGNE.

WITH THE SUPPORT OF

THE GLOBAL SOUTH STUDIES CENTRE,
UNIVERSITY OF COLOGNE.

Environmental Justice System in Africa: Exploring the Economic and Cultural Factors

Welcome to the first African Environmental Law Conference organized by the Environmental Law Center, Faculty of Law, University of Cologne.

With a population on twice that of Europe, a wealth of biodiversity and natural resources, Africa occupies a critical place in global sustainability. The subject of environmental justice in Africa has been one that encompasses the triangular prism of compensatory, regulatory, and adjudicatory elements of the national systems of African countries. Each of the fifty-four sovereign African states has a justice system capable of supporting a functioning society and protecting citizen's right to a dignified and healthy living. But in practice, and examination of empirical data and case studies demonstrates examples and patterns of environmental deprivation, exposure to hazardous risks, uncompensated incidents of injury caused by environmental pollution, and other environmental injustices that weigh down on citizens and residents of African states. This conference comes at a time when landmark judicial decisions from the Netherlands and the United Kingdom have highlighted an alternative pathway to seeking environmental justice outside the jurisdiction of African states themselves. Among other issues, we expect the conference to generate a robust discussion on the cause and implications of outsourcing environmental justice and identify particular economic and cultural factors in different African countries that have led to those extra-territorial legal paths. Economics and culture are the two major factors that environmental activists have indicated as reasons for outsourcing justice outside Africa. These primary factors are related to the inadequacy of the judicial infrastructure and the overbearing influence of foreign interests, especially oil companies, over affairs of indigenous ethnic minorities, amongst others. This conference will enable scholars to share their legal perspectives on how these factors relate to the environmental justice system in their different jurisdictions. On behalf of the Board and members of the Environmental Law Center, I welcome you all warmly.

PROF. DR. KIRK JUNKER,
Director, Environmental
Law Center,

ENVIRONMENTAL
LAW CENTER
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Program: 28 May 2021

Time	*Program*	
10:00-10:05	Welcome –	- Dr. Dennis Agelebe
10:05-10:10	Keynote Address	- *Prof. Dr. Kirk Junker. Director, Environmental Law Center, University of Cologne.*

Panel I: WEIGHING THE SUBJECTIVITY OF MULTINATIONAL CORPORATIONS WITH THE OBJECTIVITY OF NATIONAL JUSTICE SYSTEMS.

10:10-10:20	Extraterritorial human rights obligations of non-state actors for environmental and climate wrong: Any lessons from *Okpabi v Shell*?	– *Prof Ademola Jegede, LL.D. Public and International Law Department, University of Venda, Thohoyandou, South Africa*
10:20-10:30	Implementing Environmental Rule of Law in The Mining Sector in Kenya: An Assessment of the CORTEC Mining Case.	*-Dr Collins Odote. Director, Centre for Advanced Studies in Environmental Law & Policy - University of Nairobi, Kenya.*
10:30-10:40	Multinational Corporations, Transnational Corporate Liability and Environmental Justice in African States: Who will bell the cat?	- *Dr Matthew Nwankwo. Faculty of Law, University of Nigeria, Nigeria.*
10:40-10:50	Environmental Justice Issues Relating to the Oil Producing Communities of South-South Nigeria.	- *Prof Michael Ibanga. Faculty of Law, University of Calabar, Nigeria*
10:50-11:05	Questions to the Panelists and Discussion	

Panel II: BETWEEN PRESERVATION AND CONSERVATION: GIVING COMMUNITIES A SAY OR A "PAY"?

11:05-11:15	'Stop Calling It a Park, Because It's Our Home': Seeking justice after conservation-induced displacement in the case of Lyanshulu, north-eastern Namibia.	- *Dr Hauke-Peter Vehrs. Post-Doctoral researcher, Department of Social and Cultural Anthropology, University of Cologne. Germany*
11:15-11:25	'A Pact with the Devil – Can Environmental Mediation Bring Relief to Communities Affected by the Activities of Multinational Companies in Africa?'.	- *Xi Yu. LL.M, Centre for Law and Environment Faculty of Laws, University College London. United Kingdom*

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11:25-11:35	Reclamation and expulsion. Frontiers of city expansion and laissez-faire politics at Abidjan's lagoonal waterfronts.	- Dr. Irit Eguavoen, Department of Geography, University of Bonn
11:35-11:50	Questions to the Panelists and Discussion	
11:50-12:00	Coffee Break	

Panel III: Achieving Concurrence of National Environmental Law with International Commitment: Challenges and Solutions

12:00-12:07	Promotion of Environmental Justice In Nigeria: A Panacea For Sustainable Protection Of The Environment.	- *Glory Ene, LL.M. Doctoral Candidate, Environmental Law Center, University of Cologne, Germany; Lecturer, Faculty of Law, University of Calabar, Nigeria*
12:07-12:14	Considerations of Lawyers Seeking Environmental Justice in Kenya and Abroad: An Independent Observation.	*-Lenny Maxwell Kivuti, Doctoral Candidate, Environmental Law, Center for Advanced Studies in Environmental Law & Policy. University of Nairobi, Kenya.*
12:15-12:22	The Legal Protection of Forests in International Environmental Law, Shortcomings and Comparative Analysis.	- *Dr. Alois Aldridge Mugadza, Universitat de Girona, Spain*
12:22-12:30	Protecting the environment and the waste picking sector: Assessing municipal bylaws against the dictates of the Constitution.	- Nonhlanhla Ngcobo, Ph.D. Researcher, South African Research Chair in Cities, Law and Environmental Sustainability. North-West University, South Africa
12:30-12:45	Questions to the Panelists and Discussion	
12:45-13:00	Coffee/Lunch Break	

Panel IV: Presentations: Environmental Regulatory System for Africa's Energy Sector and Institutional Options for National Environmental Justice in African Countries.

13:00-13:10	Energy transitions and energy justice in Africa: What role international law?	- *Prof. Dr. Thokohzani Kaime, Chair of African Legal Studies, University of Bayreuth, Germany.*
13:10-13:20	Environmental Injustice as A Peril of Colonialism: Lessons from Nigeria's Environmental Impact Assessment Law and Practice.	- *Dr Synda Obaji. Birmingham Law School, University of Birmingham, United Kingdom*

Program: 28 May 2021

13:20-13:30	Can the African Human Rights System be an effective environmental justice system in Africa?	- *Dr Roopanand Mahadew, Department of Law University of Mauritius*
13:30-13:40	The Emergence of Environmental Courts and Tribunals in Africa: The Environment and Land Court of Kenya as a case study.	- *Dr. Olayinka Ojo, Jindal Global Law School, Sonipat, India.*
13:40-13-55	Questions to the Panelists and Discussion	

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AFRICAN ENVIRONMENTAL LAW CONFERENCE (AELC)

1. EXTRA-TERRITORIAL HUMAN RIGHTS OBLIGATIONS OF NON-STATE ACTORS FOR ENVIRONMENTAL AND CLIMATE WRONG: ANY LESSONS FROM OKPABI V SHELL?

Prof Ademola Jegede

LL.D. Public and International Law Department,
University of Venda, Thohoyandou, South Africa

The universality of human rights has been a foundation of the international human rights system, but this is yet to translate into actual obligations of non -state actors for wrongs beyond the national border of their establishment. Redressing such wrongs is problematic where global crises such as environmental degradation and climate change are involved. While there are, guiding principles developed under international human rights law for that purpose, the reluctance of states, let alone non-state actors, to recognize and implement the extraterritorial dimensions of their obligations is notorious.

A development that shows transnational ligation against multinational companies is an intractable issue between big business supporters, environmental protection, and human rights. However, in 2021, while reversing the decision of the Court of Appeal in Okpabi and others v Royal Dutch Shell Plc & Another, the United Kingdom Supreme Court concluded that it was at least arguable, based on the degree of control and de facto management, that the parent company owed a duty of care to the claimant Nigerian cizens in respect of alleged environmental damage and human rights abuses. This paper explores the implications that this decision holds for realizing the rights of victims of wrongs such as environmental degradation and climate change.

Keywords: *Climate change, environmental degradation, extra-territorial human rights obligations, non-state actors, Okpabi v Shell*

2. *Implementing Environmental Rule of Law in The Mining Sector in Kenya: An Assessment of the CORTEC Mining Case.*

Dr. Collins Odote

Director, Center for Advanced Studies in Environmental Law & Policy - University of Nairobi, Kenya.

In 2013 the UNEP Governing Council resolved to promote the environmental rule of law as a critical strategy for realizing sustainable development. A core aspect of that process required the supporting governance measures of accountability. While it has been long recognized that the rule of law is imperative for the functioning of democracies, its link to environmental management is of recent scholarship. This paper discusses one of the prerequisites for realizing the environmental rule of law in a country, being the existence of a strong dispute resolution mechanism. It argues that unless access to environmental justice is guaranteed and secured, sustainable development will remain elusive.

The argument is developed based on the Kenyan experience with its mining license issuance process in respect of exploration and extraction of rare earth in MrimaHils in the coastal parts of Kenya; the cancellation of the license following a change of government after elections, the court disputes both in Kenya and at the International Center for Settlement of International Disputes. The paper analyses the roles of the Kenyan Judiciary and international justice mechanisms in reinforcing the environmental rule of law in the mining sector, based on the international concerns around transparency and accountability in the extractive industry. Its central argument is the importance of focus on both national and international approaches and fora in the quest for access to justice as a pathway to sustainable development.

Keywords: *Mining; Kenya; Environmental Rule of Law; Sustainable Development; Justice*

3. Multinational Corporations, Transnational Corporate Liability and Environmental Justice in the African States: Who will bell the cat?

Dr Matthew Nwankwo

Faculty of Law,
University of Nigeria, Nigeria.

On 12 February 2021, the UK Supreme Court ruled in Okpabi v Shell that the case brought by the Ogale and Bille Nigerian communi es against the Royal Dutch Shell and its Nigerian subsidiary for oil pollution could proceed in UK courts. Notably, the apex court determined that there is a good and arguable case that Shell is legally responsible for the systemic pollution affecting both oil-producing communities. This follows a similar judgment in the earlier case of Lungowe v Vedanta and represents the second Supreme Court ruling on the question of whether UK courts have jurisdiction to hear extra-territorial torts committed by its foreign subsidiaries. While the Okpabi judgment is not a final determination of the suit, it offers some insight into the continuing search for environmental justice by host communities for activities of MNCs in Nigeria. Numerous lawsuits have been filed by Nigeria's oil-producing communities in foreign jurisdictions, seeking to hold parent companies accountable for the actions of their subsidiaries. These communities are forced to look externally because the jurisprudence emerging from Nigerian courts suggests that the courts are unready to take an activist approach or are constrained by constitutional barriers. At the regional level, a combination of the inadequacy of regional judicial mechanisms, issues of jurisdiction over MNCs, and the more significant international law conundrum over the lack of a binding instrument to regulate the activities of MNCs make for an arduous task of securing environmental justice for host communities. Consequently, this paper examines the prospects of these emergent decisions on the international legal landscape on the quest to hold corpora ons accountable for their activities in Nigeria's extractive industry and the wider African region.

Keywords: *Environmental Justice; Extractive Industry; Pollution*

4.. Environmental Justice Issues Relating to The Oil Producing Communities of South-South Nigeria.

Prof Michael Ibanga

Faculty of Law,
University of Calabar, Nigeria

Nigeria depends heavily on the sale of crude oil for its foreign exchange earnings and socio-economic development. Unfortunately, however, explora on for, exploita on, and transporta on of crude oil have caused unimaginable hardships for the inhabitants of the oil-producing communi es of the country. Land, water, and air of the areas have been seriously polluted through oil spillage, gas flaring, improper dumping of effluents, and other ac vi es of the oil-producing companies. And what these have resulted in including the destruc on of arable land and incidental decline in agricultural yield; pollu on of creeks and the accompanying decline in fisheries; toxic atmosphere leading to health problems; the acid rain and a endant destruc on of dwelling houses and vegeta on; deforesta on leading to erosion; and other adverse situa ons. There is no doubt that the socio-economic circumstances of the inhabitants of the oil-producing areas of South-South Nigeria defy the environmental jus ce principle that all peoples and communi es are en tled to equal protec on of the laws rela ng to environmental protec on, health, employment, housing, etc. Some publica ons have revealed the painful reality that the very area from which crude oil is extracted for the country's development is about the least developed part of it; with basic ameni es like clean water, roads, schools, hospitals, etc. This paper maintains the view that basic principles of social jus ce have been ignored by the government of Nigeria concerning the environmental protec on of the oil-producing areas of the country. It asserts that there is something defec ve in the exis ng legal framework for environmental protec on within the country and the structures for developing the oil-producing areas of the South-South region. The paper aims to iden fy the defects in the legal framework and structures for development. It concludes that further legisla ve and other measures are required to effec vely guarantee the protec on of the oil-producing area's environment and socio-economic development.

Keywords: Exploitation; Pollution; Development; Environmental Justice

5. 'A Pact with the Devil – Can Environmental Mediation bring Relief to Communities Affected by the Activities of Multinational Companies in Africa?'.

Xi Yu. LL.M

Center for Law and Environment
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College London. United Kingdom

State-sponsored pollution and dysfunctional judicial systems o en compel plain ffs from the Global South to upscale their claim internationally in an a empt to reach the jurisdiction of courts situated in the Global North. To succeed, plaintiffs must overcome constraining legal, material, and financial obstacles. However, recent development in climate litigation has seen the emergence of new legal strategies used by litigants to secure positive outcomes for the environment and communities affected by the ac vi es of carbon majors. In the light of the £55m extrajudicial settlement reached between Royal Dutch Shell and the Bodo Community, it may be that the future of climate li ga on for Global South citizens lies in alternative dispute resolution (ADR). Taking the Niger Delta region as the main illustration, this article contemplates the feasibility of environmental mediation on the African continent. It argues that while settlements ultimately allow corporate polluters to escape accountability, ADR proceedings held under the supervision of an independent body could offer effective remediation opportunities to communities seeking urgent relief for environmental degradation. In adopting an interdisciplinary approach with law and history, the article explores the influence of colonialism in Nigeria's natural resource governance today, the state of environmental justice in the country, and the challenges in establishing a just and fair environmental dispute resolution venue. It concludes that extrajudicial grievance mechanisms can contribute towards the at-last implementation of the UN Guiding Principles on Business and Human Rights in countries that are vulnerable to the influence of the extractives sector. The article also builds upon the experience of environmental mediation and environmental courts and tribunals (ECTs) in other countries such as the United States, Australia, and China.

Keywords: Environmental mediation – environmental Justice – Nigeria – Africa – extractives sector – business and human rights

6. Promotion of Environmental Justice in Nigeria: A Panacea For Sustainable Protection of the Environment.

Glory Ene, LL.M

Doctoral Candidate, Environmental Law Center, University of Cologne, Germany; Lecturer, Faculty of Law, University of Calabar, Nigeria

In the last five decades, the rapid growth of the Nigerian oil industry has resulted in substantial damage to Nigeria's environment, particularly in the Niger Delta region, where a significant proportion of the country's oil deposits are situated. Quite disheartening is that the vast amount of oil-generated revenue is far from evident in the region, as it is considered the most underdeveloped and environmentally degraded in Nigeria. This paper examines the need for, access to, and promotion of environmental justice as the ultimate basis for environmental sustainability. While the study acknowledges the direct provision on environmental protec on under Chapter II of the 1999 Constitution of the FRN wherein the state is required to protect and improve the quality of the Nigerian environment; exploit its resources for the good of the community and ensure sustainable development of the country's natural resources, this study equally frowns at the incapacitation of the judicial organ of government by sec on 6(6)(c) of the same Constitution from adjudicating on environmental matters. The implication of this is that the government can neither be questioned nor held accountable through legal action for any viola on or threatened viola on of the environmental safety provision. This study observes that, although the judicial organ of government is rendered impotent as far the carrying out of its du es is concerned under Chapter II of the Constitution, the same fate does not apply to the other organs of government to wit: the executive and legislature, who are mandated to conform to, observe and apply the provisions of this chapter. It concludes that the presence of a host of environmental laws and institutions is baseless without a strong political will on the part of the government, and a total change of attitude and reorientation of mindset towards the environment, which is a necessity, if we must, to a large extent reduce the massive destruction caused by the exploitation of nature's resources and ensure its sustainability for the present and future genera on.

Keywords: *Constitutional Provisions; Fundamental Human Rights; Sustainable Development*

7. Considerations of Lawyers Seeking Environmental Justice in Kenya and Abroad: An Independent Observation

Lenny Maxwell Kivuti

Doctoral Candidate, Environmental Law,
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Law & Policy. University of Nairobi, Kenya.

Environmental law is a relatively new advent in Kenya jurisprudence. From the existing institutional framework, international environmental law was established in Kenya
pursuant to international environmental treaties ed to UNEP, which came to being following the UN Stockholm Declaration of June 1972.

Despite the UNEP headquarters being hosted in Nairobi, it has taken Kenya nearly 50 years to absorb leadership beneficially for Africa. The considerations for UNEP headquarters were primarily geared, presumably, to where the environment is suppressed most, Africa. However, since all member countries have jurisdiction of international environmental justice, this gives lawyers the option to prosecute environmental cases nationally or internationally. The ICJ has the final decision on international environmental justice; therefore, any lawyer wishing to catch big fish would target there. Without ignoring the essence of law, it is observable that multinational companies play more prominent roles in environmental damage due to their operational sizes than local companies, which, in most cases, grow from cultural backgrounds that include local environmental corrections. There are, however, some exceptions to this observation.

In recent environmental cases in Kenya, lawyers have targeted cases involving multinational companies and organizations to adjoin the lawsuits to parent companies and the parent governments. This is predominantly because legal enforcement mechanisms in developed countries are faster, commercially lucrative, and gives the lawyer international exposure, irrespective of the plainff's/community interests.

This paper seeks to interrogate the primary considerations of lawyers in Kenya who seek environmental justice nationally and in developed countries by analyzing

Keywords: Law Practice; Lawsuits; Environmental Justice

8. The Legal Protection of Forests in International Environmental Law, Shortcomings and Comparative Analysis.

Dr. Alois Aldridge Mugadza

Researcher, University de Girona, Spain

The forest law regime remains riddled with a severe issue, namely the lack of a binding instrument. This is because of a failure to reach an agreement between developed and developing countries. There are a few international environmental laws that have been promulgated and are "relevant and relate" to the issue of forest protection. These instruments include the CITES, the UNCCD; the Kyoto Protocol; UNFCCC; the CBD, and the ITTA. However, all of these instruments have been unsuccessful in protecting forests because their main focus is not on forest protection. Forest protection is seen as a side issue or a means to achieve other environmental goals, for example, migaon of climate change, reducing deserfication or drought, and conservation of biodiversity. The debate for a forest instrument seems to have stalled, and much effort has moved to regional agencies. This paper introduces the 'common concern of humankind' as a concept that can form a global goal towards forest protection. In addition, this paper will analyze how Spain and South Africa have promoted national laws and concepts to protect their forests.

Keywords: *Forest Protection; Environmental Laws*
Part IV: Environmental Regulatory System for Africa's Energy Sector: Addressing our energy needs with clean "deeds"

9. *Energy transitions and energy justice in Africa: What role for international law?*

Prof . Dr. Kaime Thokozani

Chair of African Legal Studies,
University of Bayreuth, Germany

The inclusion of energy within the sustainable development goals marks a timely and crucial acknowledgment of the central role that access to energy services serves in all development initiatives. Coupled with the UN initiative on SE4All, it is likely that energy will feature prominently in international law and policymaking over the coming decades. However, despite the welcome strides taken at the international level to bring energy policy, and with it mass access, to the top of the development agenda, the sad truth is that a significant proportion of African citizens do not have access to modern energy sources. Limited access means that the majority of citizens cannot enjoy their full human rights because modern sources of energy underpin the enjoyment of many of the rights guaranteed by international law. Yet, despite the sheer numbers of excluded citizens and the human rights implications of such exclusion, energy policy in many African jurisdictions rarely features the views of excluded polies or, indeed, is it subjected to human rights impact analysis. This paper tackles these two shortcomings and contributes to constructing an energy critique that investigates the space for community-led energy policy reform and innovation framed around energy justice. What role should international law play in deconstructing existing theories of energy justice and articulating discursive models that contribute to a just energy policy?

Keywords: *Energy; International Law; Energy Transition*

10. *Environmental Injustice as A Peril of Colonialism: Lessons from Nigeria's Environmental Impact Assessment Law and Practice.*

Dr Synda Obaji

Birmingham Law School, University of Birmingham, United Kingdom

While several studies have shown that people of color and other poor and less influential people are disproportionately imperiled by hazardous pollution, not much of the environmental justice literature deals with understanding the processes that engender environmental injustice. This paper recognizes that without an understanding of the circumstances under which present-day conditions of injustice arose, it will be impossible to tackle them.

Accounts in the environmental justice literature suggest that poor and underrepresented people living in contaminated areas are confronted by exclusive decision-making processes, lack of fairness in the procedure, and lack of opportunities to be heard, as a result of power inequalities and other difficulties that affect their capacity to participatet in the making of decisions concerning their lives en rely. This makes an enquiry into procedural fairness crucial. Given this, this paper evaluates environmental Justice in Nigeria by examining the extent to which procedural justice principles of access to environmental information, public participation, and access to justice in environmental matters are considered in the environmental impact assessment process in Nigeria.

The central argument of this paper is that environmental Justice in Nigeria's environmental impact assessment process cannot be fully realised through law and legal instruments alone, without a change in the hierarchy of its economic policy goals and a corresponding break from cultures of exclusion and misrecognition foisted in part, by the legacies of colonialism.

Keywords: *Environmental Justice; Environmental Impact Assessment; Colonialism*

11. *Can the African Human Rights System be an effective environmental justice system in Africa?*

Dr. Roopanand Mahadew

Department of Law,
University of Mauritius

It is quite common to see African citizens, victims of environmental damages caused by multinational companies, knock at the door of foreign jurisdictions and their criminal or civil courts for justice. In some cases, they are successful, whereas, in a majority of cases, they are denied justice based on the lack of jurisdiction of such courts to adjudicate their claims. Often, their lives are irreversibly affected by the activities of transnational corpora ons without any possibility for them to get any justice.

This paper aims to interrogate whether or not the African Human Rights System (AHRS) can be an effective platform for those victims to be compensated and their situations remedied.

The AHRS, from a continental perspective, includes the treaties and conventions adopted under the aegis of the African Union, the African Commission on Human and Peoples' Rights, and the African Court on Human and Peoples' Rights. The paper assesses whether the right to environment guaranteed by the African Charter on Human and Peoples' Rights can be a basis upon which vic ms may seek environmental justice. In addition, the judicial and quasi-judicial organs mentioned above would be examined to see whether they have been or can be effective enough in rendering justice to millions of victims of environmental damages caused by transnational corpora ons in Africa.

The above assessment will guide the conclusion as to whether the AHRS can be compelling enough towards environmental justice or whether amendments are required within the normative framework under the African Union to achieve this crucial target. Case law from the African Commission, such as SERAC v Nigeria, will be reviewed from a cri cal perspective.

Keywords: *Human Rights; Environmental Justice; African Court on Human and Peoples' Rights*

12. The emergence of Environmental Courts and Tribunals in Africa: The Environment and Land Court of Kenya as a case study.

Dr. Olayinka Ojo

Jindal Global Law School, Sonipat, India.

The development of environmental law within the international and national sphere has played a vital role in the emergence of Environmental Courts and Tribunals (ECT). The recent momentum behind the global exponential increase of ECT seems to have occurred based on the emergence of Principle 10 of the 1992 Rio Declaration, which recognises the importance of environmental justice as well as environmental democracy and governance in the achievement of sustainable development, which cannot be attained through the regular courts. The impact of ECT in guaranteeing access to justice on environmental matters cannot be overemphasized. It is interesting to discover that the continent of Africa has also contributed robustly to this development through the Environmental and Land Court in Kenya, which is currently the most structured and developed ECT in Africa. Therefore, it is pertinent to study the legal frameworks of this court, its contributions, and challenges in the enforcement of environmental laws and legislation in Kenya.

Keywords: *Environmental Courts; Kenya; Africa*

13. *Protecting the environment and the waste picking sector: Assessing municipal bylaws against the dictates of the Constitution.*

Nonhlanhla Ngcobo

Ph.D. Researcher, South African Research Chair in Cities, Law, and Environmental Sustainability.
North-West University, South Africa.

In a country with an unemployment rate of thirty-one percent, over 100 000 South Africans have looked to the waste picking sector as a means of generating income. The waste picking sector remains a vital part of the informal economy. Apart from job creation, this sector recycles around ninety percent of the recyclables collected in South African households, possibly saving municipalities about R750 million in landfill space annually. Despite this, the efforts of this sector are unnoticed in policy and local government law.

In terms of section 24 of the Constitution of the Republic of South Africa, 1996, everyone has the right to an environment that is not harmful to their health and wellbeing. Organs of state, including local government, must prevent pollution and ecological degradation; promote conservation, and secure ecologically justifiable economic and social development through reasonable legislative measures. It follows that apart from their contribution to the growth of the informal economy, the waste picking sector helps to ensure the environment is protected for the benefit of current and future genera ons as envisaged by the Constitution.

The Constitution also mandates the local government to be developmentally oriented and proactively facilitate local economic development (LED). LED refers in this context to the ability for local government to foster a working relationship with the local communities where both stakeholders collaboratively devise innovative and sustainable ways of improving the livelihoods of local communities. It follows that there is a nexus between the waste picking sector and LED in South African towns and cities. Against the background of the above, the proposed paper questions the extent to which current municipal instruments that regulate waste management conform to the dictates of the Constitution. The objective is to argue in favour of revising some regulatory instruments that currently regulate waste management to align them with the prescripts of the Constitution. The paper also seeks to argue that local government cannot afford to disregard waste pickers as important role players in protecting the environment and contributing to the growth of the informal economy. The paper draws on the case of the City of Johannesburg and Cape Town.

Keywords: *Waste Management; Environmental Rights; Development*

14.

'Stop Calling It a Park, Because It's Our Home': Seeking justice after conservation-induced displacement in the case of Lyanshulu, north-eastern Namibia.

Dr. Hauke-Peter Vehrs

Post-Doctoral researcher,
Department of Social and Cultural
Anthropology, University of Cologne. Germany

North-eastern Namibia is part of the Kavango-Zambezi Transfrontier Conservation Area (KAZA-TFCA) with its magnificent scenery. Behind the conservation success story of this region, with 15 community conservancies, several community forests, three national parks, and a large forest reserve in the Zambezi Region alone, one finds a historic conservation trajectory extending far back to the 20th century. In the 'making of a conservation landscape' (Bollig and Vehrs, 2021), the inhabitants along the Kwando River - which is an integral part of the conservation landscape - were displaced into the inland areas before the declaration of independence. This not only had a substantial impact on their livelihoods but in some cases also meant that residents were forcefully evicted and are still struggling to either return to their former settlement (which are now in the heart of a national park established in 1990) or seek compensation from the Namibian government. But 40 years after the displacement, the hopes for a better future and the expectations towards representing their case through officials, including the 'traditional authorities,' have practically vanished.

In this presentation, I explore the questions of how a conservation landscape was planned and implemented, how the local population perceives today's conservation schemes and the injustices embedded therein, how the displaced Lyanshulu people seek justice today, and to what extent environmental justice and conservation conflict when it comes to the needs of both human residents and the protection of flora and fauna.

As an anthropologist, the focus of my work is on the engagement with local perspectives and the examination of the historical background of the displacement. Beyond the presented work, I wish to encourage an interdisciplinary dialogue to include my specific disciplinary perspective and include interdisciplinary and applied perspectives in the discussion.

Keywords: *Conservation; Human Rights; Justice*