



EXAMINATION OF THE NIGERIAN SEA FISHERIES ACT AND REGULATIONS: LESSONS FROM THE FISHERIES LAW OF SEYCHELLES

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Abstract

The United Nations (UN) General Assembly adopted a resolution on Transforming the World tagged 2030 Agenda for Sustainable Development, which contains, among others, Goal 14 specifically dealing with conservation and sustainability of the ocean, seas and marine resources for present needs and the benefit of future generations. This has led to the emergence of the concept of the Blue economy, a strategy for Nations to achieve sustainability of marine resources while obtaining economic benefits. This paper examines the Sea Fisheries Act of Nigeria; the extant legal measures enacted to safeguard the maritime environment and how the actions taken by the institutions tasked with enforcing the regulations have fared. The paper compare the management of fisheries and marine life resources in Nigeria with the Fisheries Act of Seychelles. The paper argues that Seychelles is a country that has made laudable strides in fisheries under the Blue Economy strategy and that the implications of the Agenda on the sustainability of MFS in Nigeria depends on, first, the extent Nigeria has integrated sustainable development into its marine fisheries law. Furthermore, the paper notes the extent which Goal 14 and its associated targets can address the causes of the deplorable state of Nigeria's MFS. The paper found that SFA does not integrate sustainable development and the Blue Economy goals. Secondly, Agenda 2030 does not address all the factors causing the poor state of Nigeria's MFS. The level at which the SFA has implemented the targeted activities under Goal 14 is low and not enough to sustain the county's interest in establishing the Blue Economy. This article recommends the enactment of a new SFA in line with SDG14 that integrates sustainability of the fisheries stocks, conservation of their ecosystem through the implementation of contemporary conservation, management and amending the Nigerian Constitution where needed to comply with measures recommended or prescribed in the Agenda and other International instruments on marine fisheries conservation.

Keywords: *Conservation, sustainable development, sustainability, Marine Fishery Resources, Blue Economy*

1.0 Introduction

Nigeria is blessed with a land mark of about nine hundred and twenty- three thousand and seven hundred and sixty – eight square kilometers (923,768 km²), about eight hundred and fifty-three kilometers (853 km) coastline, and a two hundred nautical miles(200nm) exclusive economic zone (EEZ). In addition, the country is endowed with marine waters of thirty nautical miles that spread across

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nine of its thirty-six states, yet reserve legislative activities for only the federal Government² Within the Exclusive Economic Zone (EEZ), Nigeria has exclusive rights to the exploration and exploitation of the fishes and other natural resources in its Exclusive economic zone. The Nigerian industrial coastal fishing activities consist of trawling for demersal finfish, shellfish, and penaeid shrimps. There are about a hundred and four marine fish species belonging to fifty families in Nigeria³.

The world fish production has drastically been affected by the marine fisheries production globally and in Nigeria. Throughout history, marine fishing has always been the largest contributor to global fish production. As at 2009, marine captured fisheries contributed about half at forty- nine percent of the world fish production, in comparison with mariculture that contributed twenty-one percent, fresh water aquaculture had twenty-three percent and inland capture fishery was at six percent⁴. The State of World Fisheries and Aquaculture 2018 reveals that the share of assessed Marine Fish Stocks (MFS) within biologically sustainable levels declined from 90 percent in 1974 to 66.6 percent in 2015.

In Nigeria, the state of MFS is analogous to the global level, the Federal Department of Fisheries and Aquaculture (FDFA) reported that the annual fish catch from offshore waters (50m and above), which stood at 4,400 tonnes in 1992, crashed to 882 tonnes in 2006. The deplorable state of MFS has serious environmental and socio-economic consequences, such as loss of jobs in the sector thereby exacerbating the problem of unemployment in the country, decline in the income of marine fishers and escalating prices of fish and fishery products. Fish food insecurity will further threaten Nigeria's security and peace because marine fishers who lost their jobs may take to violent crimes like piracy, vandalization of oil pipelines, terrorism or be recruited into extremist groups. All these coupled with the decline in price of petroleum products due to the Paris Agreement led the Nigerian government to launch the Economic Recovery and Growth Plan, seeking to diversify the Nation's economy through the Blue Economy strategy a few years ago.

This article argues that the sustainability of Nigeria's MFS depends on, first, the extent to which Nigeria can integrate sustainable development into the Sea Fisheries Act to enable the due conservation and management of its MFS.

2.0 Conceptual Clarifications

In this article, the term Marine fish stocks (MFS) means marine finfish, shellfish and Cetaceans, as there is no need for a clear distinction between fishing and shrimping vessels, the term fishing vessels refers to vessels engaged in fishing and shrimping.

The definition of sustainable development is complex, however, its original conceptualization is defined in *Our Common Future* (otherwise known as the Brundtland Report) as:

² CFRN 1999 second schedule., Pt. 1 item 29; V.O. Adebolu, 'Fisheries Laws and Regulations of Nigeria and Room for Further Development' in: Ita E.O, (ed) Proceedings of the 2nd Annual Conference of the Fisheries Society of Nigeria[1982](1)(25) FISON 151-158

³ F.D.Sikoki , ' Fishes in Nigerian waters: No place to hide' [2013](1)(31) An inaugural lecture delivered at the Department of Animal and Environmental Biology, Faculty of Biological Sciences College of Natural & Applied Sciences, University of Port Harcourt 100

⁴ (n 82)



... development that meets the needs of the present without compromising the ability of future generations to meet their own needs. The term contains within it two key concepts: the concepts of “needs”, in particular the essential needs of the world’s poor, to which overriding priority should be given; and the idea of limitations imposed by the state of technology and social organization on the environment’s ability to meet present and future needs⁵.

The word ‘sustainability’, has been used in several contexts such as relating to social, economic, ecological, spatial, territorial, cultural, national and international policy. In the ecological sense, where our interest lies as regards fisheries, the concept refers to the existence of the ecological conditions necessary to support fish stock regeneration, at a specific level of wellness through future generations. In this article however, sustainable development and sustainability are regarded as the same because both aim to pass on to future generations a stock of fish capital that is at least as large as our own generation has inherited from previous generations.

The Blue Economy, which is sometimes called Blue Growth or Ocean Economy however, gained attention following the Rio+20 United Nations Convention on Sustainable Development Goals. The concept of Blue Economy was first propounded by Gunter Pauli, a Belgian in his book.⁶ He defined Blue Economy as a new economic model that realizes higher sustainability of human lives through the provision of more job opportunities while preserving the natural environment and resources of the earth.⁷

Similarly, the Government of the Seychelles, a small Island state in the Western Indian Ocean, has been recognized over the years as a leading advocate of what it terms ‘Blue Economy Agenda’. A President of Seychelles has defined the Blue Economy as being about the sustainable use of the sea to meet human needs. He believes that, to be successful, the Concept must embrace environmental as well as economic interests⁸. In this article, the concept is examined from the African perspective of fostering increased wealth creation from Nigeria’s Oceans and Seas by developing a sustainable fisheries sector in our Blue Economy that is secured, economically viable and environmentally sustainable.

3.0 Nigerian Sea Fisheries Act and its Regulations

This is a brief overview of the provisions of the Nigerian Sea Fisheries Act and the Regulations made under it to facilitate marine fisheries activities, including industrial fisheries taking place in the EEZ and High seas of Nigeria.

⁵ Brundtland Commission, Oxford University Press, 1987.

⁶ G. Puali, *The Blue Economy :10 years, 100 innovations, 100 Million Jobs* (2010) Taos,NM,Paradigm Publications < www.redwingbooks.com > accessed 9 September, 2023.

⁷ G. Puali, *The Blue Economy :10 years, 100 innovations, 100 Million Jobs* (2010) Taos,NM,Paradigm Publications < www.redwingbooks.com > accessed 9 September, 2019.

⁸ J. A. Michel, *Rethinking the Oceans. Towards the Blue Economy* (2014) St. Paul: Paragon House Seychelles < www.jamesmichelfoundation.org > accessed 9th September, 2019

3.1. Sea Fisheries Act 1992

This Act prohibits harmful fishery practices in Nigeria's territorial waters⁹ and provides for the control, regulation, and protection of sea fisheries in these waters. According to the Act,¹⁰ all motor fishing boats or vessels must be registered and licensed before they can legally operate or navigate within Nigeria's territorial waters or its EEZ. The Act provides for the following:

- a. The registration and licensing of fishing trawlers operating in the coastal waters of Nigeria. It prohibits the use of explosives and poisons in catching fish. It also disallows the use of trawlers within the first two nautical miles of the continental shelf to prevent competition with small scale artisanal fishers.
- b. The minimum cod end mesh size of trawl nets, was set at 3.5 inches (or 76 mm) for finfish and 1.75 inches (or 44 mm) for shrimps.
- c. The prevention of shrimp trawlers from operating within the inshore waters of the Lagos-West fishing grounds to protect juvenile croakers that were common in the area. The Sea Fisheries Act provided for a N50, 000 fine or two-year imprisonment for offenders.¹¹ This Act merely prescribed harvest-based Conservation Management Measure with no mention of some cogent terms¹² that underpin contemporary marine fisheries management.

3.2 Sea Fisheries (Licensing) Regulation of 1992

The Sea Fisheries Licensing Regulation of 1992 stipulates the conditions for granting a fishing license for shrimp harvesting and fishing. This requires an application for pre-purchase assurance and submission of feasibility studies. It provides that no person should operate or navigate any unregistered and unlicensed motorized fishing boat for the purpose of fishing or reefer vessel for the purpose of discharging frozen fish within the territorial waters of Nigeria or its EEZ.

It identifies the Minister responsible for fisheries as the licensing officer and ensures that the operation of motorized fishing boats in the territorial waters of Nigeria or its EEZ would not negatively affect the interests of Nigeria's sea fishing industry. This regulation provides the conditions for licensing, types of motor fishing boats approved for use in Nigeria's territorial waters, and validity of a license.

3.3 Sea Fisheries (Fish Inspection and Quality Assurance) Regulation of 1995

This regulation mainly institutionalized fish inspection and quality assurance in Nigeria. The emphasis was on the mode of transportation, handling, storage, and sale of fish imported into or exported from Nigeria. This regulation is a sequel from the 1992 Act, it complements the Act by adding provisions for Fish Inspection and Quality Assurance as its main concern, to aid in controlling fishery products.¹³ Under these Regulations, trawlers must be certified for fitness by the appropriate authority and such certificate must be displayed on the vessel concerned for ascertainment of its fitness and to

⁹ Section 10 of the Sea Fisheries Act Cap S4, LFN

¹⁰ Section 1 of the Sea Fisheries Act Cap S4, LFN 2004

¹¹ Section 10 of the Sea Fisheries Act Cap S4, LFN 2004

¹² Such as ecosystem approach, sustainable development, precautionary approach, protection of critical marine habitat, maximum sustainable yield etc.

¹³ O.J Llaoye and W.G. Ojebiyi, 'Marine Fisheries in Nigeria: A Review (2018)Licensee <IntechOpen@http://creativecommons.org/license/by/3.0> accessed 23rd November 2020



enable it fish and transport its catch. This is to ensure confidence and reliability that the vessel concerned can fish and guarantee the safe delivery of its catch without any delays due to breakdown of the vessel or attendant delays to warrant any deterioration of the fish on board. As a result, any vessel that is not seaworthy because it has not undergone the approved regular routine maintenance, will have its certificate earlier issued, withdrawn by the Inspector of Fish.¹⁴

By the second regulation of this Regulation, owners of fish vessels are prohibited from discharging, unloading, handling or holding fish, whether the fish is for export or importation purposes, without observing the required hygienic conditions and using the appropriate handling and storage equipment and facilities, and also to ensure that a fish inspector is present during all these aforementioned activities as it relates to unloading and discharging of fish from any vessel.¹⁵ These requirements in this provision are designed to promote public health of fish consumers and compliance with the extant Sanitation regulations and international best practices in the fisheries industry. Though, these requirements seem not to apply to fish displayed and sold in the local markets in Nigeria, as the typical woman selling fish in the market to the end consumers is not known to observe them.

Finally, it specifies how the Federal Department of Fisheries is to dispose of confiscated fishery products, as, where it is fit for consumption, by auction and by destruction where it is unfit for human consumption.¹⁶

4.0 Fisheries Act (No. 20 of 2014) of Seychelles

The Act consists of 79 sections divided into 8 Parts namely; Part I is on Management of Fisheries, Part II focuses Licensing requirements, Part III is on Aquaculture Management and Development, Part IV deals on Appeals Board, Part V is on enforcement measures, Part VI provides for Offences and Part VII is the Miscellaneous provision. The Act provides for efficient and effective management and sustainable development of fisheries in accordance with international standards and best practices and an ecosystem approach to fisheries.¹⁷ It further provides for licensing fishing vessels to regulate sport fishing and other fishing activities.¹⁸ It provides for offences and penalties and other matters ancillary to it.¹⁹

This Act provides for the management, conservation and development of fisheries, in fisheries within Seychelles waters and related matters. It also concerns, among other things aquaculture²⁰, the use of a joint venture fishing vessel, a local fishing vessel, a Seychelles fishing vessel on the high seas or in waters under the jurisdiction of another State²¹, the protection of marine resources other than fish and protection of the marine environment.

5.0 Lessons from the Fisheries Act 2014 of Seychelles

This is a brief study of existing Nigerian Sea fisheries laws and that of the Seychelles. The Study makes observations as to how such laws facilitate or otherwise, the effective management of fisheries using

¹⁴ SFR, 1995 reg. 1.

¹⁵ SFR 1995 reg. 2(1) (2) (3)(a-b).

¹⁶ SFR 1995 reg. 15 (a-b).

¹⁷ FA 2014 ss.15-18.

¹⁸ *Ibid* ss.11-12

¹⁹ *Ibid* ss.58-59

²⁰ FA 2014 s.34

²¹ FA 2014 ss.25-28



the requirements of the Blue Economy. It also presents a brief description of the status of implementation, in these countries, of the main international fisheries instruments, namely of the United Nations Convention on the Law of the Sea 1982 relating to the Conservation and Management of Fish Stocks, Straddling Fish Stocks and Highly Migratory Fish Stocks. This study is neither comprehensive nor exhaustive. It is basically a condensed comparative desk study of the fisheries laws of these countries. It should also be noted that the review of the fisheries law for the purpose of the comparative study focuses on the principal fisheries legislation in each country.

5.1. Analysis

The UNCLOS was specific on the jurisdiction of a coastal state in its EEZ and the need for local research in the management and exploitation of marine living resources, but, the Nigerian EEZ Act fails to mention this.²² Fisheries management in Nigeria is largely the responsibility of the Nigerian fisheries institutions. Unfortunately, these same institutions are oftentimes grossly underfunded and therefore ill-equipped in terms of manpower, equipment, and infrastructure to carry out credible and far reaching research to enhance the sustainable development of Nigerian fisheries. Moreover, there is no fisheries policy and even where fishery policies do exist, there is a lack of capacity to, implement them such as, lack of equipment and adequately trained manpower.²³ The Act merely prescribes harvest-based conservation management measures without mentioning any fisheries management measures such as ecosystem approach, sustainable development, precautionary approach, protection of critical marine habitat, maximum sustainable yield and others that underpin contemporary marine fisheries management.

The Sea Fisheries Licensing Regulation²⁴ on its part, stipulates the conditions with the main purpose for issuing licenses in Nigeria being for revenue generation, and the issue of control is made incidental. Licenses for fishing are issued without specifying the number of boats to be registered. The registration of an unregulated number of boats can only lead to overfishing, illegal fishing and overexploitation of fishes and other marine resources.²⁵

In the case of mesh size stipulations, the laws are driven by inadequate research without collating technical and scientific information on the different types of fishery species, their major habitat, nursery and breeding grounds, catch composition of the various fishing gears, the feeding behaviour of different species of fish, minimum sizes of the different species at first maturity and more, which is a paucity of data on fish stocks.²⁶ This inevitably warrants overdependence on a precautionary management approach where the regulations are not thoroughly implemented.

Furthermore, low-licensing fees has been identified as a major problem. The inadequate penalties prescribed by the various laws regulating the marine environment, such as the penalty of N50,000 or a

²²R.O.Moses-Oke and M.O. Erhun, 'Legal Framework for Sustainable Conservation of Fishery Resources in the Marine Environment of Nigeria' [2022](9)(2) Brawijawa Law Journal 26-40 < <https://doi.org/10.21776/ub.bji> > accessed 10 June 2023.

²³ (n 21) Moses-Oke and Erhun

²⁴ SF(Licensing) Regulation 1992

²⁵ E.O.Babatunde and M.M. Abdulsalam, 'Towards Maintaining Peacefulness of the Sea: Legal Regime Governing Maritime Safety and Security in Nigeria' [2021] (12)(2) Beijing Law Review < DoI:10.4236/bir.2021.122029 > accessed 17 July 2023

²⁶ (n 21) Moses-Oke and Erhun.



2-year imprisonment in the Sea Fisheries Act encourages disobedience to the laws.²⁷ The weak implementation of the laws and inadequate penalties is a major problem facing Nigeria's fisheries industry.

In the Seychelles, The Fisheries Act revises and consolidates the laws relating to fisheries. It provides a general framework for efficient and effective management and sustainable development of fisheries in accordance with international norms, standards and best practices. It adopts an ecosystem-based approach to fisheries as explicitly stated, being the principal legislation governing fisheries and aquaculture management in the Seychelles.²⁸ The Fisheries Act introduces changes for the implementation of sustainable development, and compliance with international standards²⁹

The main management actions are vested in the SFA. Typically, the Minister responsible for fisheries is vested with the powers to make regulations for the proper management of fisheries and to establish specific management measures. The Minister can enter into agreements with other States, intergovernmental organizations and associations representing foreign fishing vessels operators for the purposes of allocating fishing rights. He can also compound offences. Many important fisheries management powers are shared as indicated above. This could be naturally problematic as difficulties in administering legislation and fisheries management powers could occur if the various agencies that deal with different aspects of fisheries management have poor working relationships. However, this may not be necessarily true for small government administrations and this seems to be the case for Seychelles.³⁰

The recent amendments that enabled Seychelles to implement the Compliance Agreement and other international agreements widened its scope and made it, relatively, the most comprehensive legislation in the SADC region in this respect but more could be done through legislation to implement the more Agreements. There is additional institutional mechanism under the Act through the SFA Act³¹ that will enable participation by stakeholders in management decisions and allow them to influence such decisions. Nevertheless, consultation with local fishermen and other persons could occur in the preparation of the plans. Consultation with the fisheries management authorities of other states can also influence fisheries management decisions.³² On management mechanisms, the Act requires the SFA to prepare and keep under review plans for the management and development of fisheries. These plans shall indicate the current state of fisheries, the objectives to be achieved and the management, development and licensing measures to be applied including the amount of fishing to be allocated to foreign fishing vessels. management and conservation measures such as closed seasons, closed areas, use of gear, species and size of fish. The Act authorizes the Minister to enter into agreements for the allocation of fishing rights to foreigners and provides in general for foreign fishing in the Seychelles waters. Licences to foreign fishing vessels is granted only pursuant to an agreement except when the

²⁷ (n 21) Moses-Oke and Erhun

²⁸ B.Kuemlangan, 'Comparative Analysis of the Fisheries Legal Frameworks of SADC Coastal Countries, Status and Options' (2021) Legal Development Service, FAO < www.fao.org > accessed 26 July 2023.

²⁹ *Ibid.*

³⁰ D. Benzaken and Others, 'Good Governance for Sustainable Blue Economy in Small Islands: Lessons Learned from the Seychelles Experience' [2022](4)(12) *front. Polit.Sci.* www.frontiersin.org accessed 17 July, 2023.

³¹ Seychelles Fishing Authority (Establishment) Act Cap. 214 1984.

³² (n 27) Kuemlangan.



Minister determines if an agreement is not practical and the applicant provides sufficient financial and other guarantees for the fulfilment of obligations under this Act.³³

6.0 Conclusion

This article has appraised and analyzed the Sea Fisheries Legislation in Nigeria and the Fisheries Act of Seychelles and as regards their compliance with the 2030 Agenda of SDG 14 and the Blue Economy goals of sustainability and other international conventions can address the causes of the deplorable state of Nigeria's Marine fish stocks of Finfish and Shellfish. This paper found that the SFA does not integrate sustainable development, and the Blue Economy goals, as there are no BE targets to meet to foster compliance with SDG 14. Furthermore, the Agenda alone, does not address all the factors causing the poor state of Nigeria's MFS, as there are other fundamental constitutional issues to also address. More so, the level at which the SFA has implemented the targeted activities under Goal 14 is low and not enough to sustain the county's interest in establishing the Blue Economy.

The paper concludes that the Nigerian Sea Fisheries Act and Regulations have not complied with Agenda 2030 and the Blue Economy goals of sustainability of fish stocks and conservation of their ecosystem health as the Blue Economy strategy has not even been established in Nigeria. Accordingly, it is recommended that there is a need for Nigeria to come up with BE strategy backed by law, a target that is in line with the SDGs 2030 and AU AIMS 2050. Additionally, the enactment of a new SFA in line with SDG 14 that integrates sustainability of the fisheries stocks and conservation of their ecosystem through the implementation of contemporary conservation, management and need to amend the Nigerian Constitution where needed to enable the application of measures recommended or prescribed in the Agenda and other international instruments on marine fisheries conservation.

³³ FA 2014 ss.6-8.