

## **Environmental Protection in Nigeria Rural Communities: Strategizing Ostracism for Enforcement and Compliance**

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### **Abstract**

*Global attention is increasingly focusing on traditional customary strategies and techniques for adequate environmental protection, particularly in rural communities of developing nations. This emanates from a preference for the customary law as a more relied option for quick resolutions to conflicts issuing from the use and management of environmental resources such as water supply. Enforcement and compliance with governance rules are vital for environmental management and sustainability of critical constituents. However, in Nigeria, there is an omission of these two elements traceable to top-down institutional policies and lacuna in some of the legislative instruments- notably, the Water Resources Act 1993. This study examines the effect of ostracism as a strategy for enforcement and compliance with rules in a governance system. Semi-structured interview in the qualitative approach was adopted for inquiry. Findings indicate that ostracism as a significant aspect of cultural ethos may be relied upon for compliance to rules at the rural community level, while excommunication, voice, trade, and fines as techniques of ostracism may be cited and applied for enforcement. In conclusion, the study argues that ostracism may be more strategic for effective environmental protection, particularly, water supply rather than legislation.*

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### **Introduction**

Several statutory instruments and customary laws regulate land and water resources in various developing nations. However, environmental protection challenges, such as water supply conflicts arising from inaccessibility and unsustainability of management may be better resolved by dependence on customary laws playing significant roles. Controversial views indicate that in the search for effective options for water resources management in Nigeria rural communities, the balance of probabilities often tilts towards legislations rather than traditional belief systems consisting of attitude, perceptions, and reality. This counters traditional evolvement of rules governing relationships in rural communities, before the emergence of British colonial administration. In that era, the acceptability of conventional, customary rules was not subjected to controversies, since they were binding on every community member, despite being unwritten. The belief system subsists presently and reflects in the major roles played by rural community members for environmental development, protection, and management, traceable to local knowledge and traditional customary practices. If proposed reforms for environmental protection in rural communities are to succeed, conventional, customary law contributions should be acceptable and not rejected, while support and recognition for community members' culture, interests, and identity, are salient for sustainable development.

One powerful and influential traditional rule is ostracism, strategically located in the community ethos as a mode of sanctions for community members. The various embedded techniques encourage the observance of regulations for compliance and enforcement of environmental protection and water governance.

This study consists of four parts, in which Part 1 examines the practice of ostracism as a customary traditional community norm and value for compliance and enforcement to local rules governing the environment. Part 2 identifies the various techniques of ostracism. Part 3 states the legal implications and Part 4 provides the methodology and results, followed by the conclusion.

### **Ostracism as a Traditional Historical Value**

Ostracism as a well-established practice in the 5th century is a derivation of the ancient Greek word *ostrakismo*, which emerged in ancient Greece- notably Athens, Miletus, Syracuse and Megara as a social evasion with legal backing. It was used as a political strategy against prominent citizens who could be banished for ten years without formal charges when regarded as threats against state's political stability. The emergence and usage may be traced to Cleisthenes, in his reformation of the Athenian Constitution after the banishment of Hippias (508 bc). The practice of ostracism may, however, not be regarded as an exclusive preserve of the Greeks, since Nigeria rural communities have in the past, exercised authority over non-compliance and non-enforcement by members through the medium, as a strategy to curb political wrongdoings. Over the years, this has proved a strong plan for the management and preservation of the environment and its constituents, in which there are reserved forests, game parks, economic trees, quarries, sources of water bodies such as lakes, rivers, streams, and ponds.

Within contemporary context, ostracism is the exclusion of persons from social acceptance, friendships and privileges by general consent. It involves community norms and values for the broad protection of the environment and may specifically serve a useful purpose for the sustainability of water supply. Ostracism is practiced effortlessly in the Southern and Northern regions of Nigeria among the three major ethnic groupings of Hausa, Yoruba, and Igbo. Its anchorage in traditional customary practises of rural communities of Nigeria may be supported by one of the cardinal principles of governance that, good governance should align with ethical principles, located in the societies, where they are functioning. This serves in forestalling the likelihood of disrespect for communities' traditional rights.

### **Strategy for Compliance and Enforcement: Techniques of Ostracism**

The traditional customary strategy of ostracism may be identified as one of the sustained customary traditional enforcement and compliance mechanisms. The strategy consists of variants which may be interpreted, depending on the purpose of practice by a

community. The voice technique may be invoked to curb the excesses of erring community members. Other community members may receive instructions from leaders to shun and avoid the exchange of speeches with an erring member in breach of community environmental protection rules, until the fulfillment of sanction obligations. The imposition of this technique may be emergent upon refusal or neglect of rates payment (for example, water rates), wanton destruction of community infrastructure, activities interpreted as pollution against the environment (notably, water sources and the air or climate), unauthorised poaching of fish and other water creatures, breach against orders on bush burning, tree felling, quarrying, and animal hunting.

Trade ostracism may be explored on the issuance of leadership orders, directing that every community member should forthwith cease trade interactions with an erring member. In this case, patronage for goods and services discontinue until the erring member has fulfilled sanction obligations and remedied the wrong against community rules. Trade boycott may, at the same time be imposed by trade cohorts until the sanction is vacated when the requirements are fulfilled. Peer pressure may be reasonably exerted upon a member in breach, to obey sanction demands. An erring member may be vested with the status of '*persona non-grata*' which may affect family ego, prestige and pedigree. Family groupings may also exert pressure on their erring member to urge fulfilment of sanction requirements and to avoid liability and inclusion in the '*shaming*' of disobedience.

Payment of fines is another sanction technique imposed as punitive measures against violators of governing rules, such as unreasonable delay in payment of water rates, intentional and outright refusal to participate in cleaning up the infrastructure premises or wanton destruction of utilities for the use and enjoyment of the public. Tied to this technique is the banishment of violators of rules from the community. This technique, however, carries an uncomfortable burden on the extended family of an erring member and the entire community. While the family may regard this punitive measure as a disgrace to their pedigree, the community may view it as a kind of leadership failure signalling weakness by the local administration in the enforcement of discipline. The technique is usually, subject to bitter controversies due to its implied extremism and likely litigation.

It is thus, a rare occurrence.

Ostracism may reflect in local prison confinement of an erring community member, adjudged guilty of infringements of governing environmental rules. A further technique of exclusion is psychological, in which an erring community member is stripped naked, paraded and booed by the other members. The shame and embarrassment of the exercise are often profound and may cause a relocation of the person from such community to another, but there is a deterrence on other would be offenders, and the technique may only be explored in rare circumstances, such as where there is theft of public utility.

### **Techniques of Ostracism: Legal Implications**

Constitutional provision entitles every Nigerian to their cultural beliefs. This provision defeats arguments against the tradition and cultural practice of ostracism as a local strategy for compliance and enforcement of environmental governance rules. However, ostracism, as a local community sanction strategy may not be absolute as a practice since the application of the rule of law, calls every action (whether traditionally cultural or legislation-based) to order.

There is a contemporaneous focus on the improvement of equitable access to justice, empowering the poor or marginalized persons to claim rights and seek peaceful negotiations for disputes. Where there is a discernible breach of rights, a community member may seek court's interpretations or resolutions. For example, an infringement on the rights of a person in the equitable supply of water is a breach of the person's Human Rights. The provisions of the Nigeria 1999 Constitution also governs customary laws, while the constitutionally embedded principle of fair hearing is critical for dispensing justice in the exercise of ostracism. The implication is that an erring person should be heard before imposing any of the techniques of ostracism.

Every Nigerian is constitutionally entitled to personal liberty and should not be deprived of such a right, which excludes exceptional circumstances such as when a community member fails to comply with court's orders or when the community seeks to ensure the fulfilment of obligations imposed legally. Banishment of erring community members may be regarded as an unlawful and

unconstitutional technique, particularly since the Supreme Court's decision in *Alhaji Shugaba Darman v Federal Minister of Internal Affairs & Others*, which is a *locus Classicus*. Respondent, a Nigerian, was on a deportation order from Nigeria to the Chad Republic, under an allegation purporting that he was domiciled there. Defendant challenged this at the High Court, which decided in his favour. The Federal Government's opposition to the High Court's decision was defeated at the Court of Appeals. The Supreme Court ruled in Shugaba's favour, awarding compensation, following a further appeal. Another legal implication of banishing an errant community member may be founded on some of the rules governing Nigeria Customary Law. While flexibility attaches an accepted usage to customary law, it does not encourage actions interpreted as repugnant. The Courts maintained in *Edet v Essien* that a Customary Law might only be applied when it is not offensive to natural justice, equity and good conscience. The Evidence Act 2011 also provides for this and may be used to the issue of the banishment of an erring community member for infringement of environmental protection governance rules.

While local prison confinement of an erring member may serve as a deterrent, it may not be used in the absence of statutory provisions, which regulate the use of imprisonment as either punitive or deterrence measure. There is a further breach of fundamental human rights on a person on whom nudity is forcefully imposed, since such a disciplinary action may deprive the person of the right to human dignity.

### **Methodology and Results**

Intense contact with participants on the inquiry was facilitated by a semi-structured interview in the qualitative approach. The Delta State of Nigeria was used as interview study focus. Selected participants shared similar background challenges regarding environmental protection. This ensured that the range of experiences and the phenomenon under investigation were fully understood. The principal aim was the strategic sampling of those participants considered relevant to the interview questions and whose sampling was, therefore, based on researcher's judgment regarding typicality. Fifty-four participants were interviewed based on three selection

criteria of local government, category distribution, and designation.

- There was an inquiry on the most common perception for varieties of community sanctions, and ostracism was the highest opinion from thirty-one sources (Table 4.1).

**Table 4.1: Varieties of rural community sanction strategies**

Dependent Nodes	Sources	Response by Local Government			Response by Category distribution/designation													
		Oshimili S.	Uvwie	Warri S.	AC/Member	BO/Chairman	The judiciary/CCJ	CO/Oil related company member	CSO/Chairman	Rural community/GR	Rural community/HC	LGC/Member	ME/Director	MWR/Director	MH/Director	MO/Member	NGOE/Environmental protection member	
Community Work	1	0	0	1	0	0	0	0	1	0	0	0	0	0	0	0	0	
Confiscation of Property	1	1	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	
Depends on Community	7	2	4	1	0	0	0	0	1	1	0	1	1	1	1	0	1	
Depends on the Offence	7	0	4	3	0	0	0	0	1	2	1	0	1	0	1	1	0	
Disconnection	10	3	3	4	0	0	0	0	0	1	3	1	1	1	2	1	0	
Fines	22	8	7	7	2	3	1	2	1	3	3	2	0	2	0	1	2	
Ostracism	31	12	10	9	3	0	2	2	1	8	5	1	2	1	1	2	3	
Public Disgrace	2	1	1	0	0	0	0	0	0	0	2	0	0	0	0	0	0	
Suspension	12	5	4	3	1	2	1	1	0	2	2	0	0	1	1	0	0	
Torture	2	0	1	1	0	0	0	0	0	0	0	0	1	0	0	0	1	

**Source: Aluta, E. (2017)**

- The researcher sought participants' suggestions on the major effects of ostracism as a strategy for community sanctions. Participants' perceived that it may serve some relevant purposes (Figure 4.1). The details of the interview have also been provided (Table 4.2).





**Source: Aluta, E. (2017)**

- The researcher sought to know whether ostracism has cultural implications. The highest perception was 'yes' (Table 4.3).

**Table 4.3: Ostracism as community sanction strategy and cultural implications**

Dependent Nodes	Sources	Response by Local Government			Response by Category distribution/designation												
		Oshimili S.	Uvwie	Warri S.	AC/Member	BO/Chairman	The judiciary/CCI	CO/Oil related company member	CSO/Chairman	Rural community/GR	Rural community/HC	LGC/Member	ME/Director	MWR/Director	MH/Director	MO/Member	NGOE/Environmental protection member
Yes	50	18	16	16	3	3	3	3	3	1	0	8	2	3	3	3	3
I do not know	1	0	0	1	0	0	0	0	0	1	0	0	0	0	0	0	0
No	3	0	2	1	0	0	0	0	0	1	1	0	1	0	0	0	0

**Source: Aluta, E. (2017)**

### Conclusion

The objective of this paper concluded, critically carried out an empirical study regarding the strategy to community sanctions and exclusions, which may enable compliance and enforcement of environmental governance rules and serve the purpose of deterrence of wrongdoing against the environment. The techniques of ostracism are not absolute in themselves as they may be subject to court's interpretations of their legality based on human rights, which supports respect for the human persons. The techniques may, however, prove more potent in use than legislation. The advocacy, therefore, is a balance in use, justice, and fairness as ingredients for effective exploration, while equality in the dispensation of justice is unavoidable.

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