Law, Religion and the Environment in Africa

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ACLARS

AFRICAN CONSORTIUM FOR
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AFTERWORD: AFRICA'S ENVIRONMENT – LEGALLY PROTECTED, RELIGIOUSLY PRESERVED

Botswana,¹ the site of the ACLARS 2019 conference, is a member of the Southern Africa Development Community (SADC), a regional organisation that has coordinated regional policies and practices since its inception. Amongst SADC members, Botswana has been described by observers as prosperous and peaceful state. But like other members, it has been adversely affected by the 2008/2009 economic meltdown and currently by COVID-19. Despite these negative developments, Botswana has managed to weather the economic storms and, so far, maintained some form of stability. However, it must remain vigilant in terms of the challenges that lie ahead by continuing to be a proactive member state not only of SADC but also of the African Union and the United Nations. To these ends, Botswana has been amongst the African countries that responded to the UN'S Sustainable Development Goals, by approving a roadmap,² that currently guides its stakeholders in matters related to environmental protection and preservation.

Geographically, Botswana is landlocked, its northern and eastern borders respectively discernible by river courses, its western border by corresponding lines of longitude and latitude that cuts through the Kalahari and its southern border, which it shares with South Africa, marked by an old wagon road. Botswana's northern part consists of the waterlogged Okavango Delta, where there is an abundance of wildlife that includes, amongst others, many species of birds and mammals. The western part of the country that shares a border with Namibia in the Kalahari Desert.

Diverse ecologically, Botswana has been and continues to be an international tourist destination. Because of its attractive ecosystem and friendly surroundings, the government of Botswana, with the support of the UN and the AU, has put in place legal structures to protect its huge environment and its rich wildlife. Considering these facts about the country, it was quite timely that ACLARS chose Botswana to be the host of its 2019 conference, fittingly focused on "Law, Religion and the Environment in Africa".

Protecting and conserving the environment through the African Union

Over the years, the AU, of which Botswana is a member, has created and constructed conventions and related legal instruments in protecting its vast environment. When assessing the Africa continent, one cannot deny that compared to others such as

1 United Nations of Economic Commission for Africa. 2018. *Country's Profile 2017: Botswana*. Addis Ababa: UNECA. Online at: https://www.uneca.org/sites/default/files/uploaded-documents/CountryProfiles/2018/botswana_cp_2017_en.pdf

2 See Republic of Botswana Ministry of Finance and Economic Development and United Nations. 2018. *Botswana SDGs: Roadmap: A Guide to Implementation of Sustainable Development Goals*. Gaborone: Republic of Botswana and UN.

North America and Europe, Africa is expansive. The continent, together with its diverse environs, is the location of a variety of ecosystems, such as its rain forests, and its landmass consists of an assortment of natural resources. Mildly put, Africa is environmentally rich.

Ironically, despite Africa's exquisite natural resources, it cannot seem to enrich itself and its peoples as desired. Over the many decades, especially since the late nineteenth century, Africa was ruthlessly plundered by its colonial masters, causing many of its nation-states to wallow in debt during their postcolonial periods. On top of that, many African countries, which have poor infrastructure because of the lack of financial resources, have become dependent upon the foreign direct investments of transnational corporations such as Monsanto,³ these foreign investments, instead of releasing them from debt, have pushed them into a perpetual debt trap. Regrettably, though the AU was established to care for its member states, it appears that it is an ineffectual organisation that cannot neutralise the influence of the TNCs that have weakened the sovereignty of many African countries.⁴

Legal conventions for conservation

Be that as it may and in spite of the African Union not being as proactive as anticipated continentally, the organisation generated guidelines, constructed conventions and proposed protocols for its member states,⁵ and these complemented the Copenhagen Declaration on Social Justice and related frameworks.⁶ Amongst these, the AU adopted in 1968 and revised in 2017 an African Convention on the Conservation of Nature and Natural Resources that equally applied to all member states. The convention put forward three objectives: (1) to enhance environmental protection; (2) to foster the conservation and sustainable use of natural resources; and (3) to harmonise and coordinate policies in these fields. In addition to these objectives, the Convention identified key principles:⁷ first, the "right of all peoples (of the nation-state) to a satisfactory environment favorable to their development",

3 Robin M-M. 2010. *The World According to Monsanto: Pollution, Corruption, and the Control of our Food Supply*. New York: New Press.

4 Ayittey GBN. 2016. "Disband the African Union", *Foreign Policy*, 10 July. Online at: <https://foreignpolicy.com/2016/07/10/disband-the-african-union/>; Karbo T and Murithi T (eds). 2018. *The African Union: Autocracy, Diplomacy and Peacebuilding in Africa*. New York: IB Tauris.

5 African Union. African Convention on the Conservation of Nature and Natural Resources, U.N.T.S., vol. 1001, I-14689, adopted 15 September 1968, entered into force 16 July 1969. Online at: <https://au.int/en/treaties/african-convention/>

6 See the report of UN Special Rapporteur John H. Knox. 2018. "Framework Principles on Human Rights and the Environment", A/HRC/37/59, 5 March. Knox's report builds upon, expands and complements the report of the then UN Special Rapporteur Fatima Z. Ksentini. 1994. "Draft Principles on Human Rights and the Environment", E/CN.4/Sub.2/1994/9, Annex I (1994), 16 May.

7 These are further expounded on in the 2007 United Nations Environment Programme report in Bruch C. 2007. *Constitutional Environmental Law: Giving Force to Fundamental Principles in Africa*. Second Edition. Washington: Environmental Law Institute.

second, the “duty of the states – individual and collective – to ensure the enjoyment of the right to development” and third, that nation-states should “ensure that development and environmental needs (of the people) are met in a sustainable, fair & equitable manner”.⁸ While these are commendable principles, one wonders whether this is adequate in countering Africa's gradual environmental destruction, particularly as witnessed in the mining sector and deforestation in the central part of the continent.

Religious partners for preservation

Though the African Union might have been critiqued for its inability to tackle some issues, it has succeeded in dealing with others. Nonetheless, it is presently important for the AU's political leadership to partner with non-governmental organisations (NGOs) to deal with Africa's environmental issues. Religious organisations belong to those NGOs that can play important interventionist role on behalf of the AU, and they can do so through combating climate change and contesting natural disasters using their invisible assets.

The UN, for example, worked closely with numerous religious organisations and it launched the “Faith for Earth Initiative”. Its idea is “to encourage, empower and engage with faith-based organizations as partners, at all levels, towards achieving SDGs and fulfilling the 2030 Agenda”.⁹ The question is if this can be done by the UN, why can the AU not undertake a similar project? It has been proved that religious organisations have invisible assets and a trustworthy network that may be used to work towards the preservation and conservation of Africa's environs.

During the past few years a number of initiatives have taken place in which forums and platforms were established to deal with environmental matters. For example, the Georgetown University-based World Faiths Development Dialogue¹⁰ was initiated in 1998 and the Jerusalem-based Interfaith Center for Sustainable Development¹¹ was set up in 2010 to address a variety of issues such as the environment. ACLARS, likewise, might play an important advisory role in such discussions. ACLARS has proven itself as an association through international conferences that have addressed a range of topics that tie law and religion together over the past few years, including relevant areas of interest such as the environment, the focus of the Botswana 2019 conference. ACLARS is a body that has a network of expertise and scholars who can concretely contribute to the AU's list of concerns. Papers presented at the Botswana conference and many of which appear in this volume contribute importantly to these African debates.

8 See Bruch, *Constitutional Environmental Law*, 27-33 and 89, table 3.

9 See United Nations Environment Programme, Faith for Earth Initiative. Online at: <https://www.unenvironment.org/about-un-environment/faith-earth-initiative>

10 See World Faiths Development Dialogue, Berkley Center for Religion, Peace, and World Affairs, Georgetown University, Washington, DC. Online at: <https://berkeleycenter.georgetown.edu/wfdd>

11 See Interfaith Center for Sustainable Development. Online at: <https://www.interfaithsustain.com/>

ACLARS should seek consultative status with the UN, the AU and other international and regional bodies that focus on Africa. ACLARS can also draw on the knowledge and expertise of its broader networks through the United States-based International Center for Law and Religion Studies (ICLRS) and the Europe-based International Consortium for Law and Religion Studies (ICLARS). ACLARS, one my wish to state, is in the position to create a transformative partnership on law and religion issues – one that might assist in placing people and planet at the center and in solidifying global communication, collaboration and cooperation to achieve each and every Sustainable Development Goal, including the environmental focus of the ACLARS Botswana conference.¹²

Law, religion and environment

At the ACLARS 2019 Botswana conference, its members explored the triangular nexus between law, religion and the environment. Though these three variables are understandably distinct from one another, the conference presenters, ranging from the keynote speakers to plenary session presenters, showed and underlined the extent to which law and religion are connected to the other and to which law and religion, as separate disciplines and working together, can help private and public stakeholders to comprehend the environment differently. Their insights would be deepened through addressing the prudence of the legal approach in protecting the environment from development for material gain by cunning conglomerates and scheming government officials. Their understanding would also be acutely sharpened through consideration of prudent religious interpretations that demonstrate concerns for the preservation of the environment currently being deliberately damaged or determinedly destroyed by greedy conglomerates supported by corrupt governments.

Many of the ACLARS Botswana papers collected in this edited volume fittingly underscore this inseparable and intertwined affiliation. Through informative and educative presentations, participants in the conference were stimulated by endless animated debates regarding topics such as African ecofeminisms and preservation of natural and environmental heritage sites in Africa. They were provoked, too, by healthy discussions pertaining to sustainability and conservation and the impact of worship spaces on the environment. These productively discerning discourses and astute academic offerings exhaustively engaged with the conference's main theme and subthemes in illuminatingly theoretical and significantly empirical ways.

The presenters palpably proved that all of us in attendance, from both within and outside of the African continent, readily supported and endorsed the idea of forging these lucid religio-legal and environmental links that might potentially translate into much needed and practically oriented policy documents for organisations, such as the UN and the AU. The keynote speakers spiritedly shared their thoughts

12 Parts of these comments were drawn from a report of the United Nations Environment Programme. Niamir-Fuller M, Özdemir I and Brinkman J. 2016. *Environment, Religion and Culture in the Context of the 2030 Agenda for Sustainable Development*. Nairobi: UNEP.

in delivering papers that addressed and unpacked the conference's theme. The same may be said about the diverse sessions and panels where specialists in religion unloaded their ideas and where legal scholars added their voices. It seems that there was a general consensus in most of the presentations that this nexus should be developed and expanded, so that African societies may benefit from these important scholarly inputs.

Conclusion

From the overall outcomes of the ACLARS Botswana conference on "Law, Religion and the Environment", it may be argued that all participants have come to appreciate the intimate interconnection that exists, a linkage that provided them with an enriched and a comprehensive understanding. Amongst the presentations were papers that cogently illustrated how certain African countries' legal systems have enacted appropriate laws to tackle and protect their respective ecological surroundings. Others disclosed how religious traditions, reinforced by their corresponding religious laws and rooted in the notion that the universe and everything therein are essentially God's creation, stressed the gravity of sensibly preserving the natural environment along with its resources. Alongside these specialists in law and religion, participants also engaged with environmental science specialists who added precious perspectives into the decisive debates.

To that end, as the ACLARS Botswana conference host committee's coordinator, I wish to express, on behalf of the University of Botswana's Department of Theology and Religious Studies and its Department of Law, our gratitude to everyone at the University of Botswana and at ACLARS for having made it a success. Our thanks are also extended to this book's editor-in-chief, M. Christian Green, and her colleagues and co-editors on the ACLARS Publications Committee, for having brought together a striking selection of papers of the ACLARS 2019 Botswana conference.

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