

Law and Sustainable Development ⁱⁿ Africa



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CHAPTER ELEVEN

CORPORATE SOCIAL RESPONSIBILITIES AND SUSTAINABLE DEVELOPMENT IN NIGERIA -THE ROLE OF LANGUAGE RIGHTS

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Introduction

The record on moving towards sustainability so far appears to have been quite poor and the vast majority of humanity still lacks access to basic needs such as clean water, adequate sanitation, electricity, and so on.¹ At the base of the drive to achieve sustainable development the world over are issues of Corporate Social Responsibility (CSR). However, it is argued that CSR cannot be achieved in isolation if issues of language rights are not well factored into the debate.

In the debate of CSR, it has become imperative to draw a line between public policy and corporate business. We should not ignore to take cognizance of the legal dimensions of CSR. This obviously undermines the chances of making meaningful progress in addressing the onerous task in creating a proper balance between government, business and civil society roles and responsibilities.

CSR has legal obligations and voluntary perspectives to it. The relationship between voluntary and mandatory initiatives is fast evolving in innovative ways. There is also a new wave of litigation to enforce CSR initiatives. Such legal actions are prevalent in the United States, and some parts of European Union countries.

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¹ <http://www.unhcr.org/refugees/article/261/world-summit-on-sustainable-development-2002-September-8-2002.html>

A very clear instance is the series of litigations to reveal low fundamental principles of international law practices particularly human rights law. Many of these cases are closely associated with campaigns against companies that invest in countries linked to abusive regimes. These parent companies in their home countries can be held liable to pay compensation to people who have suffered great hardship and oppression by their operations in other countries. This is aptly referred to as 'foreign direct liability. The U.S courts have tried cases that border on the liabilities of retailers in respect of abuse of labour rights elsewhere in the supply chain. However, language rights have not been looked upon in this wise also. Perhaps it is the neglect of the cultural right of language rights that informs this timely academic intervention.

According to Obijiofor, language holds a major key to the developmental activities for Nigeria and this can only be achieved by enhancing the development and promotion of languages. He further posits that this is so because essentially public service broadcasting is one important vehicle for the development, promotion and sustenance of lesser used languages in the world. Public service broadcasting is a very important institution that serves different objectives in different societies. In its ideal form, public service broadcasting caters for the diverse needs of audiences of different socioeconomic backgrounds. It is founded on the principle of universal access to information. Public service broadcasting is seen as essential for the development of a strong and participatory democracy.² This ideal the author's agree with are core basis for enhancing sustainable development.

Breaches of minimum legal requirements have variously placed companies' reputations as good corporate players in doubt. For instance action against a cartel that had fixed prices of vitamins around the world drew attention to the CSR implications of basic principles of fair dealing. As a public policy agenda, dimensions of CSR point to a need to revisit the institutional settings of CSR.

² Obijiofor L, 'Saving endangered languages through public service broadcasting The Nigeria Guardian newspaper July 1, 2011

Most corporate bodies do not however, see the promotion of language rights which is achievable by investing language education as a veritable tool of enhancing so much perceived CSR goals. Indeed, the enjoyment of such rights are well limited where the people of minority language do not comprehend in the first place the message been communicated or directives passed to enhance environmental friendly activities.

Language rights are cultural rights, thus, it is important to have an understanding of what cultures entails. Culture is about human relations and constant cross influencing, cross fertilization; conflict and change. In today's interlinked world, economic globalization, revolution in communications, massive people's migration and other phenomena result in ever increasing cultural contacts.¹ Language therefore is a means of perpetuating cultural development that is sustainable. In addition, in defining cultural rights, one bears in mind the ground breaking General Assembly resolution 41/120 adopted on 4 December 1986 entitled 'setting international standards in the field of human rights' which provided guidance to the international legislator. Consequently, if sustainable development is to receive legislative attention in Nigeria, it is opined that language rights must take its pride of place as it is a veritable basis for achieving the desire objective. Drawing a link between sustainable development as a CSR and language right is trite at this time Nigeria is faced with serve ethno-religious laden conflicts.

Transnational businesses are major entities in global affairs. Some have considerable resources at their disposal. Business partnerships with governments, at national and local level are increasing in many parts of the world, as it is recognized that business processes can bring positive benefits.⁴ Consequently, sustainable development can therefore only be achieved by ensuring better integration between national and international

¹ Tsamatopoulou E, What are Cultural Rights? The Normative Content of The right to Participate in Cultural Life, in Cultural Rights in International Law Article 27 of the Universal Declaration of Human Rights and Beyond, 108.

⁴ <http://www.globalissues.org/article/366/world-summit-on-sustainable-development> (accessed December 1, 2011).

policy agendas on good public governance, corporate social responsibility and corporate accountability. To achieve this goal, language must play an important role in building a lasting relationship among the various players.

It is argued in this paper that promoting language rights as a CSR obligation is core if the goal of sustainable development must be achieved.

CSR- A Right-Based Analysis

It is very obvious that law sets the baseline for CSR. This is in addition to public policy consideration, hence, there is a paradigm shift of CSR beyond the voluntary versus regulatory' debate. In many developing countries, the notion of CSR responsibility remains unarguably linked to the challenge of ensuring that all business comply with minimum legal requirements for environment and labour protection, fair competition and corporate governance. A very contentious aspect of CSR initiative is the requirements for companies to report on non- financially aspects of their operation. Companies are averse to these requirements. Few companies adhere to this on a voluntary basis.⁵ However, the EU commissions July 2002 communication on CSR define it as a concept where by companies integrate social and environmental concerns in their business operations and in their interactions with their stakeholders⁶

Thus, the corporate social responsibility initiative should be understood as a veritable vehicle for better compliance and enforcement of minimum standards. Pursuing the legal perspective of CSR has been very rigorous. This is premised on the grounds that most CSR are linked to Socio Economic Rights of citizens. However, recent jurisprudence on the Economic and Social Rights (ESCR) prove that the previous clogs in the wheel can now be

⁵ The argument has been that voluntary reporting does not apply consistently to all companies.

⁶ Com (2002) 347(01) 2nd July 2002 available online at: http://europa.eu.int/comm/rer/zri/en/dpi/doc/2002/com2002_0347eno10doc (accessed December 1, 2011).

effectively done away with.⁷ On the other hand, CSR related litigation is very helpful in unfolding some of the most difficult 'border line issues about the respective roles and responsibilities of business, civil society, and governments. Suffice it to suggest that CSR and law intertwine particularly from the human rights perspective.

These points of intersection have defined especially during the World Summit on Sustainable Development.⁸ During the summit issues like right to health, healthy environment and right to water dominated the discussions. Therefore not upholding CSR is tantamount to violation of the basic rights of citizens. This assertion is made because, CSR represents "the integrity with which a company governs itself, fulfills its mission, lives by its values, engages with its stakeholders, measures its impacts and reports on its activities."⁹ Importantly, for effective engagement, the authors advocate that communication in language of host communities must be encouraged for maximum results.

Although most people appreciate the recent advancement of CSR, some argue that corporations are still not doing enough or are only acting in self interest. The widespread impression is that multinational corporations are acting ethically in areas that are heavily regulated, at the same time; acting differently in the opposite direction in other parts of the world. Many argue that businesses do not put in a sufficient amount of resources to achieve their CSR policies.

Consequently, in treating CSR as human rights the link with the right to development must not be overlooked. This is premised on the fact that with the adoption by the United Nations General Assembly of the Declaration on the Right to Development which explicitly affirmed the human right to development and by the 1993 Vienna World Conference on Human Rights as well as by

⁷ See Egbewole W.O and Onuora-Oguno A.C, 'Social Conflict in Nigeria- Non Justiciability of Economic Social Rights a catalyst'?

⁸ Johannesburg, August 26 to September 4, 2002.

⁹ Statement by Department of Trade and Industry in the United kingdom

the various world conferences and summits which took place under United Nations auspices during the 1990s, bringing basic human rights and freedoms to the fore, and culminating with the Millennium Declaration and the Millennium Development Goals (MDGs), based on an integrated and interdependent set of human rights, identified as the underpinning of the process of economic and social development. It is safe to conclude that developmental issues are human rights inclined and thus must be respected, protected, promoted and fulfilled.¹⁰

Language Rights, CSR and Sustainable Development

Language is a major drive in the quest for any nation's development. In driving development and also ensuring that CSR responsibilities of corporate bodies are met, the place of language cannot be overlooked. Jennifer Jackson Preece explains that ethnic language is a core basis for the realization of a nation's potentials. It is posited that it is incumbent on a nation worthy of the name to revive, develop and extend what is taken to be its original language. This argument is advanced in this work without prejudice to the multiethnic nature of Nigeria with over 700 ethnic languages. However, it is opined that there is no sufficient basis for neglecting other languages especially where they are capable of enhancing the realization of sustainable development.

The political declaration adopted at Johannesburg, as well as the Summit's Plan of Implementation, contains references to corporate responsibility and accountability, including "the full development and effective implementation of intergovernmental agreements and measures." The Summit acknowledged the need to consider ethics in the implementation of a sustainable development agenda, marking the first time that an explicit reference to ethics has been made in any official United Nations environment or development document.¹¹

¹⁰ Sustainable Development from A Human Rights Perspective And The Challenges It Represents For The Caribbean Sids, available at <http://www.eclac.org/publicaciones/xml/9/29209/L.123.pdf> (accessed December 1, 2011).

¹¹ http://earthtrends.wri.org/features/view_feature.php?theme=3&fid=40 (accessed December 1, 2011).

The Plan of Implementation also commits governments to ensuring access at the national level to environmental information and judicial and administrative proceedings in environmental matters, as well as public participation in decision-making. Although it failed to pledge new resources or expand implementation of these "access principles" adopted at the 1992 Rio Summit, the WSSD reaffirmed the importance of ensuring individuals' access to information, participation in decision-making, and justice.

A clear analysis of the above draws a link to access to information and participation. It is therefore the bias of the author's that for effective implementation of the policy, language rights must be enhanced. Language remains a major vehicle through which values are communicated from one generation to another. In some climes in Africa, several languages are at the verge of extinction. Language rights are majorly advocated by minority groups.¹² In Nigeria the over reliance on the three major languages of Ibo, Yoruba and Hausa pose a great challenge to other minority languages. For instance, the major telecommunication operators in Nigeria,¹³ all run their promotions in the major languages and neglecting the others. Thus, for development to be sustainable in Nigeria, information about public services and goods, for example, should also be available, as far as possible, in languages spoken by minorities.¹⁴

Another core relevance of language rights in this debate is the fact that more legislation covers environmental reporting than social reporting or integrated reporting. There are also laws that deal with environmental issues. Governments have established ministries and agencies to address both environmental issues and social issues, aside the efforts of NGOs and civil rights organization. However, the question remains, how much of the activities of these agencies are carried out in languages understood by people who are objects of CSR in most circumstances? It is

¹² <http://www.njas.helsinki.fi/pdf-files/vol12num1/oyetade.pdf> (accessed October 3, 2011).

¹³ MTN, GLO, Airtel and Etisalat

¹⁴ ESCR General comment 20, paragraph 21

important therefore, that such information must henceforth be also disseminated in languages other than the major ones.

Globalization and Language Rights

"In the galaxy of languages, every word is a star. "...UNESCO"

We live in an increasingly globalized world and one moreover that is dominated by English as the current lingua mundi (international language). At the same time, we are facing the rapid retrenchment and loss of many of the world's nearly 7000 spoken languages, with indigenous and other minority languages being most at risk.¹⁵

Globalization is the term largely applied to the spread of Western ideology and ideas into the rest of the world. Most often you will find Globalization in reference to large corporate companies that have the ability to promote their products worldwide at lower prices than any competition. Language rights refer to the rights of people to have a national language. In these terms Language rights can be more specifically defined as "Linguistic Human Rights." Linguistic Human Rights refer specifically to the rights of people to speak a national language, and to learn in a national language, and to have no alternative national language forced upon them. The right to learn foreign/second languages is also a "Language right" but would not fall under the definition of Linguistic Human Rights. The way in which these two terms come together is this: Some people believe that because of Globalization the Language rights of non-western cultures are being violated. Because English is the western language our cultural expansion throughout the world is causing other cultural and regional languages to become extinct.¹⁶

The challenges of the minority languages in the globalization era is becoming a major cause of concern in other multiethnic

¹⁵ Globalisation and Languages: Building our Heritage, International conference proceedings, available at <http://unesdoc.unesco.org/images/0018/001831/183170e.pdf> (accessed 31 December 2011).

¹⁶ <http://www.enotes.com/ref/q-and-a/what-meants-by-language-rights-globalization-200033> (accessed December 31, 2011)

communities,¹⁷ however, same cannot be said about Nigeria. The adoption of second languages and intonation is seen as being socially superior to others. This therefore portends the challenge of choice in the discus of language right in Nigeria. According to Sheu and Arowosaiye, 'how do we protect and argue for the language right of the people when our market women strive to speak English?'¹⁹ These comments represent the unfortunate negative impact of globalization on language rights in Nigeria.

However, despite the challenges and impact of globalization on the choice of people in deliberately foregoing their language rights, it is posited that despite the challenges of globalization, all language communities are entitled to have at their disposal all the human and material resources necessary to ensure that their language is resented to the extent they desire at all levels of education within their territory properly trained teachers, appropriate teaching methods, books etc.²⁰

¹⁷ <http://cibar.org/blogak/luistxo/en/archive/2008/09/29/challenges-of-minority-languages-in-the-globalization-age> (accessed December 31, 2011).

¹⁸ Defending the specificity of cultural products and services on the World market was a cause initially promoted by France and the Francophone countries which, by 1998, had created a working group to promote an international legal instrument that would guarantee to States the power to regulate quotas of diffusion in the linguistic domain or for internal cultural production, and to establish compensatory systems of financing or public subsidies for their cultural products and services. There is no doubt that the adoption by UNESCO of these principles in Article 8 of the 2001 Universal Declaration on Cultural Diversity represented influential support for these initiatives and, not long afterwards, the States of other linguistic and cultural spaces have come out in defence of cultural diversity in the market. In 2003, a joint organisation called Three Linguistic Spaces was formed of Francophone, Hispanophone and Lusophone countries¹⁶, and contacts with Arabic-, Russian-, Chinese- and Japanese speaking countries are gradually being made. See Isidor M, *Globalisation and Linguistic Towards a universal framework of linguistic sustainability* http://www.llull.cat/rec_transfer/webt1/transfer01_foc03.pdf (accessed 31 December, 2011).

¹⁹ Comments and remarks during the international conference on sustainable development and the law, University of Ilorin. December 6, 2011.

²⁰ Jurgen J, Jan-Ola O and Jef V, ed. 'Society and Language Use', http://books.google.com.ng/books?hl=en&lr=&id=cfnugK0W8AwC&oi=fnd&pg=PA212&q=globalization+and+language+rights&ots=79W1WiNpLL&sig=Mv4lU192cutxV1z9wLTihpWiyuc&redir_esc=y#v=onepage&q=globalization%20and%20language%20rights&f=false (accessed 31 December, 2011).

The antagonism towards minority languages in most bilingual or multilingual African countries has led to linguistic assimilation and loss. Interestingly, "a 'majority' language – that is, a language with greater political power, privilege and social prestige – comes to replace the range and functions of a 'minority' language."²³ When this is done, development will not be sustained as minorities have a great role to play in ensuring the continuous use of resources. Another conclusion reached is the fact that sustainability is not only economic and environmentally based, its link to culture as espoused in the UN declaration of indigenous people is also paramount, and thus the language of indigenous minorities must be protected.

Indeed, the cultivation of cultural diversity is one of today's greatest opportunities, because we cannot conceive a stronger and a better world in the future without stronger and better individuals. However, strong individuals cannot and do not grow out of a vacuum. They grow out of a cultural background and in order to become strong, especially in this globalized world of ours, they need to know from where they are coming; or in other words who they are. It is the only way for them to be able to react as autonomous individuals to the pressures of today's world, pressures that regrettably weigh more heavily on some portions of humanity than on others.²⁴

Finally, it is concluded that the right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realised.²⁵ Thus to achieve this, the functional phrase is

²³ http://www.nyulawglobal.org/globalex/Minority_Languages_Africa.htm (accessed December 1, 2011).

²⁴ Isidor M, *Globalisation and Linguistic Towards a universal framework of linguistic sustainability* http://www.llull.cat/rec_transfer/webt1/transfer01_foc03.pdf (accessed 31 December, 2011).

²⁵ The Declaration on the Right to Development, UN GA Res 41/128, article 1/1, 4 December 1986

'participation'. For development to be fully sustainable therefore all peoples of Nigeria must participate and there is no better way of participating than via the cultural identity of language.

Recommendations

To achieve sustainable development in Nigeria it is important that language right which is a cultural right be promoted beyond the three major languages in the country in line with the Cultural declaration on Universal Diversity of UNESCO 2001.

In addition, language as a vehicle for development and as the major means of education must also be enhanced in the teaching curriculum in Nigeria to ensure the full cycle of communication between the citizens and the corporate bodies in their public information dissemination.

Furthermore, corporate bodies are to be encouraged by continued parley with the government to improve on their voluntary initiative²⁶ to cover more Nigerian languages in order to achieve effective communication and dissemination of information aimed at ensuring better governance and environmental friendly attitudes.

²⁶ Mabuza L, Msezane N and Kwata M, 'Mining and Corporate Social Responsibility Partnerships in South Africa' AISA Policy brief November 15, 2010.