

Law and Sustainable Development in Africa



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CHAPTER FIVE

CHALLENGES OF SUSTAINABLE DEVELOPMENT IN NIGERIA: LEGAL PERSPECTIVES

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Introduction

The environment does not exist as a sphere separate from human actions, ambitions, and needs and attempts to defend it in isolation from human concerns have given the very word “environment” a connotation of naivety in some political circles. The word “development” has also been narrowed by some into a very limited focus, along the lines of “what poor nations should do to become richer”, and thus again is automatically dismissed by many in the international arena as being a concern of specialists, of those involved in questions of “development assistance”. But the “environment” is where we live; and “development” is what we all do in attempting to improve our lot within that abode. The two are inseparable¹

There is an iota of truism in this assertion, thus, explaining why some of those who feel and are concerned about the concept of sustainable development, tend to twine the rope of this concept around the trunk of the protection and sustenance of our environment and ecological resources. This is because, truly, the world is challenged by a changing climate, loss of biodiversity, abject poverty and environmental degradation.²

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¹ World Commission on Environment and Development (WCED), *Our Common Future*, (Oxford University Press, New York 1987) p.xi. Statement made by Gro Harlem Brundtland, Pioneer Chairman, World Commission on Environment and Development (WCED) of the United Nations.

While underlining the towering status acquired by the concept, it is discovered that sustainable development as a concept, as a goal, and as a movement spreads rapidly and presently forms the fulcrum of the mission of countless international organizations, national institutions, corporate enterprises, “sustainable cities” and locales.³ To appropriately tackle the issue of sustainable development, there are matters we have to look at in the assessment because the emergence of the concept was an attempt *to combine environment and development*.⁴ Thus sustainable development primarily entails to ideas, that is, of meeting needs, on the one hand, and of protecting the future ability to meet those needs, on the other.⁵

The first requires us to show results in terms of human condition,⁶ here and now. The second requires us to show results in terms of the actions taken to protect the resource base on which the human condition depends – essentially, different dimensions of the protection of natural resources and the environment. These are two dimensions: meeting needs and protecting the natural resource and environmental dimension on which our capacity to meet the social and economic developmental needs rests. What can we say of these *two parameters of sustainable development?*⁷

The above makes it imperative to look beyond the protection of environment while considering sustainable development in Nigeria.

² Gagnier Daniel, the chair of the Board of Directors of the International Institute for Sustainable Development (HS), in an interview published in *ISO Focus* (March 2009) p.4. http://www.iisd.org/pdf/2009/com_guest_view_dan_gagnier.pdf accessed on 6 September 2010.

³ Kates R.W, Parris T. M, and Leiserowitz A.A, ‘What is Sustainable Development? Goals, Indicators, Values, and Practice’ (2005) 47(3) *Environment: Science and Policy for Sustainable Development*, p. 10

⁴ Desai N, ‘Introducing Item 98: Environment and Sustainable Development’ (Being a statement delivered to the Second Committee at a meeting held at New York on 29 October 2001) p. 3

⁵ Ibid.

⁶ Underlining ours for emphasis

⁷ Desai N, ‘Introducing Item 98: Environment and Sustainable Development’, p. 3

This paper contends that though sustaining the environment and protecting our ecological resources are important in the discourse of sustainable development; in Nigeria, there are other pressing issues which are being ignored; and have critically hindered the achievement of the desired sustainable development – including environmental protection. Thus this paper first examines disjunctively and from definitional perspectives, the two keywords – sustainability and development – that constitute the concept of sustainable development. The intention is to examine whether the conjunctive use of these terms – to form sustainable development – connotes environmental protection alone. Then the paper highlights the general conceptualization of sustainable development as it is popularly propounded. Thereafter, the paper examines, especially from the legal perspective, the challenges facing sustainable development in Nigeria. The paper finally proffers recommendations and concludes.

General Conceptualization/Elements of Sustainable Development

Sustainable development has become a much used phrase in the international circles.⁸ Since the first Brundtland Commission's definition of sustainable development, a number of scholars and practitioners have articulated and promoted their own alternative definitions; yet a clear, fixed, and immutable meaning remains elusive. This has led some observers to call sustainable development an oxymoron, fundamentally contradictory and irreconcilable.⁹ The term has become widely used that, in fact, "it is in danger of meaning nothing" because it has been applied to all manner of activities.¹⁰ Thus in common parlance, especially by the

⁸ Arko-Cobbah A, 'Promoting sustainable development in Africa: civil society and free access to information' (a paper delivered at the World Library and Information Congress: 76th IFLA General Conference and Assembly held at Gothenburg, Sweden from 10-15 August 2010) p. 2.

⁹ Kates R.W, Parris T. M, and Leiserowitz A.A, 'What is Sustainable Development? Goals, Indicators, Values, and Practice', p. 20.

¹⁰ Arko-Cobbah A, 'Promoting sustainable development in Africa: civil society and free access to information', p.2 citing Zencey, E., 'Theses on sustainability', (2010) Orion Magazine.

environmentalists, it is mainly used to mean observing the richness of the earth's biodiversity for future generations.¹¹

While attempting to conceptualize the term 'sustainable development', the International Institute for Sustainable Development¹² posited that 'the improvement of economic efficiency, the protection and restoration of the environment and the enhancement of the social well-being of people formed the basic tenets of sustainable development'.¹³ According to the developmental educationists, the term refers to 'the reduction of hunger and poverty in environmentally sound ways. It includes the meeting of basic needs, expanding economic opportunities, protecting and improving the environment and promoting pluralism and democratic participation'.¹⁴ In another instance, the term was described as relating to the *fulfillment of human requirements within a society* while still maintaining the natural environment indefinitely.¹⁵

According to Mintzer, though the essence of this form of development is a stable relationship between human activities and the natural world, which does not diminish the prospects for future generations to enjoy a quality of life, at least as good as our

¹¹ Joshi A, 'Application of the Principles of Sustainable Development by the Indian Judiciary' <http://www.ignou.ac.in/schools/soss/FINAL_SOSS_CONFERENCE/full%20papers/f1/Asha%20Joshi.pdf> accessed on 6 September 2010. See also Lawrence Berkeley National Laboratory, 'What is Sustainable Development?', Lawrence Berkeley National Laboratory's ELSI (Ethical, Legal and Social Issues in Science) Project <<http://www.lbl.gov/Education/ELSI/sustainable.html>> accessed on 6 September 2010.

¹² Hereafter referred to as IISD.

¹³ IISD, *Sustainable Development Toolkit* (1995) <<http://iisd1.iisd.ca/educate/learn.htm>> accessed on 8 September 2010

¹⁴ Google.com, 'Definitions of Sustainable Development on the web' <<http://www.google.ca/url?q=http://www.developmenteducation.ie/glossary/&sa=X&ei=Gx6FTcQAnwf45qzxDg&ved=0CBYQpAMoAg&usq=AFOJCNEFYOEKiloxAYZSf2RHLyJDRy88JQ>> accessed on 8 September 2010.

¹⁵ See Google.com, *ibid*, <http://www.google.ca/url?=http://www.aggregate.com/Glossary-of-terms/&sa=X&ei=Gx6FT2EMcQAnwf45qzxDg&ved=0CBwQpAMoCA&usq=AFOJCNGZhuUBAawORV4F807YH9zZ8fd_9w> accessed on 8 September 2010.

own yet many observers believe that *participatory democracy, undominated by vested interests, is a prerequisite for achieving sustainable development*.¹⁶

However, following the signing of the Agenda 21 by the United Nations Conference on Environment and Development (UNCED), it became clearer that its directives recommended the building up of the governing capacity of the State in every country, especially in developing countries, which includes Nigeria. The effective governance of the State is observed in its ability to govern the citizens without any discrimination.¹⁷

Thus from the above, it is clear that the concept of sustainable development is not so restrictive as to be limited in its application and scope to environmental protection. Moreover, one common feature could be gleaned from all the various forms of conceptualizations of the term. That is, the social and economic fulfilment of human requirement rather goes inter-parallel with the environmental and ecological protection.

Definitional Perceptions of the Keywords in the Concept¹⁸

It is axiomatic that very few concepts are susceptible to a definition that would end all definitions. Sustainable development has been regarded as an evolving dynamic concept with many dimensions and many interpretations and appears to support the contention that there is no need for one agreed definition but rather it should be seen as a "process of change that is heavily reliant on local contexts, needs, and priorities".¹⁹ But considering

¹⁶ Mintzer I.M, *Confronting Climate Change: Risks, Implications, and Responses* (Cambridge University Press, London 1992). See also <<http://www.globalchange.org/glossall/gloss-u.htm>> accessed on 8 September 2010.

¹⁷ Joshi A, 'Application of the Principles of Sustainable Development by the Indian Judiciary', p.4.

¹⁸ That is, Sustainable Development

¹⁹ UNESCO, 'Freedom of Information and sustainable development: sealing the link' in *Final Report of the UNESCO Experts Meeting* held in Paris on March 2008 cited in Arko-Cobbah A, 'Promoting civil society and free access to information'

that the term 'sustainable development' is now enshrined on the masthead of environmental and ecological ship, it is believed in some other quarters that it should be easy to define.²⁰

Apparently, the term 'sustainable development' is derived from the conjunctive use of the words 'sustainable' and 'development'. However, for the purpose of this discourse, the paper shall attempt first to disjunctively examine the keywords in the concept and then re-marry these two terms to proffer a workable definition that would focus on how to protect and ensure human development to enhance ecological protection and development.

It is no doubt that the varying definitions from the available materials at our disposal point to the fact that the term 'sustainable' involves the use of natural products and energy in a way that does not harm the environment; or the usage of a thing in such a way that it can continue or be continued for a long time.²¹ Yet it is undisputable that the term originated from its root word 'sustain' which was described as providing enough of what somebody or something needs in order to live or exist.²² However, an instructive perception of this term was provided by the Board on Sustainable Development of the United States National Academy of Sciences. The board suggested that 'a minimal sustainability transition would be one in which the world provides the energy, materials, and information to feed, nurture, house, educate, and employ the many more people of 2050 – while reducing hunger and poverty and preserving the basic life support

²⁰ Kates R.W, Parris T.M, and Leiserowitz A.A, *Environment: Science and Policy for Sustainable Development*, citing Chichilnisky G., 'What is Sustainable Development? (1997) 73(4) Land Economics, 467-491.

²¹ Hornby A.S, *Oxford Advanced Learner's Dictionary*, (7th ed., Oxford: Oxford University Press 2005) 1492. Other definitions with similar perspectives are found in: Chandrachud Y.V, *P Ramanatha Aiyar's Concise Law Dictionary* (Lexis Nexis Butterworths Wadhwa Nagpur, New Delhi 2005) 1116-1117; Desai N, 'Introducing item 98: Environment and Sustainable Development'. Joshi A, 'Application of the principles of sustainable development by the Indian judiciary'; Kates R.W, Parris T.M, and Leiserowitz A.A, *Environment: Science and Policy for sustainable development*.

²² Hornby A.S, *Oxford Advanced Learner's Dictionary*.

systems of the planet'.²³ We submit that even though from a tangential view of this position, it contains certain environmental issues/elements but a surgical view would reveal that the issues aimed at by the suggestion go beyond the nurturing of the environment alone but other aspects of human lives, which are deemed paramount for survival.

'Development' on the hand, could literally be defined as the gradual growth of something so that it becomes more advanced and stronger.²⁴ It was described as the process of changing and becoming larger, stronger, or more impressive, successful, or more impressive, successful, or advanced, or of causing somebody or something to change in this way.²⁵

However, from a wider and focal perspective, the word 'development' was seen as the process by which a type of (social) change is introduced into a system in order to produce a better production method and improved social arrangement. It was also said to involve a structural transformation of the economy, society, polity and culture of a country.²⁶ It has also been described as a value word which includes the personal perceptions, ideas, aspirations and concepts of what constitutes and builds up a just society.²⁷ According to Denis Goulet, development is a value that entails human attitudes and preferences, self defined goals and criteria for determining what a tolerable costs to be borne in the course of change, which he believed are more important than

²³ National Research Council, Policy Division, Board on Sustainable Development, *Our Common Journey: A transition toward Sustainability* (National Academy Press, Washington DC 1999) 22.

²⁴ Hornby A.S, *Oxford Advanced Learner's Dictionary*, p. 400

²⁵ Microsoft Encarta® *Encarta Dictionaries* (Microsoft Corporation, United States 2009). See also Chandrachud Y.V, *P Ramanatha Aiyar's Concise Law Dictionary*, p.330.

²⁶ Lawal G, 'Corruption and Development in Africa: Challenges for Political and Economic Change' (2007) 2 (1) *Humanity & Social Sciences Journal*, p. 1.

²⁷ Joshi A, 'Application of the principles of sustainable development by the Indian judiciary', p.3, footnote 12,

better resource allocation, upgraded skills or the rationalization of administrative procedures.²⁸

Thus looking at the definition of the concept through the lens of the above definitions, we believe it is safe to define the concept from another perspective different from the traditional one that has been more focused on the environmental and ecological protection. This paper thus views sustainable development as

Structural transformation of the economy, society, polity and culture of a country by providing enough of what the citizens and other inhabitants need to live or exist in order to produce a better production method and improved social arrangement in that country.'

This is because the development of a country depends on how its citizens and other inhabitants are being sustained; and the sustenance of the citizens and other inhabitants are influenced by so many variables beyond the protection of the environment.

The Legal and Other Challenges to Sustainable Development in Nigeria

Nigeria, like other African countries, is endowed with human and natural resources as well as great cultural, ecological and economic diversity.²⁹ Yet, it still struggles with developmental issues.³⁰ The nature of development in African countries is such that has remained poor and lags behind other regions in the world.³¹ It was noted by Sirleaf and Radelet that the past three

²⁸ See Ansari M.I, 'Islamic perspectives on sustainable development' (1994) 11(3) *The American Journal of Islamic Social Sciences*, p. 396 citing Goulet D, 'An ethical model for the study of values' (1971) 41, *Harvard Law Review*, 205-207.

²⁹ Abdullahi A.A and Muoghalu M.I, 'Development Aid Flow and Poverty Reduction in Africa', (2006) 8(3) *Journal of Sustainable Development in Africa*, p.240.

³⁰ Arko-Cobbah A, 'Promoting sustainable development in Africa: civil society and free access to information', p.3

³¹ Lawal G, 'The Normative Impediments to African Development: Internalist and externalist interpretations' (2006) 2(9) *Journal of Applied Sciences Research*, p. 637.

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decades was disastrous for Africans because most of Africa continued to be bogged by poverty whereas its counterpart in development rating, i.e. Asia, recorded the fastest growth rates and reductions in poverty in the history of the world. They pointed out that almost all the sub-saharan African countries (which includes Nigeria) recorded average annual per capita growth of about zero, between 1970 and 2000.³²

It should be noted that a number of mutually reinforcing factors account for this stunted development or its stagnation/underdevelopment at large.³³ It is thus clear that the sustainable development in Nigeria is unfortunately plagued with problems that go beyond environmental and ecological abuse/mismanagement, and it is worthwhile having a look at some of the basic issues.

a Gender Equity and Equality

Generally, the leaders in the African developing nations practice the politics of exclusion, and this portends serious harm to those societies, as it would often scare away domestic resources and foreign investments, which could have increased development related activities.³⁴

A germane issue under this point is the gender equality. Although the New Partnership for African Development³⁵ has stated its concerns for social and gender equity, yet, the social and economic measures it adopts are major contributories to the marginalization

³² Sirleaf E.J and Radelet S, 'The good news out of Africa: democracy, stability, and the renewal of growth and development' (Centre for Global Development 2008) p.1

³³ Lawal G, 'The Normative Impediments to African Development: Internalist and Externalist Interpretations'.

³⁴ Forje J.W, 'Enhancing sustainable governance and development in Africa - a reassessment of current challenges and future prospects' <<http://unpan1.un.org/intradoc/groups/public/documents/AAPAM/UNPAN026536.pdf>> accessed on 6 September 2010.

³⁵ Hereinafter referred to as NEPAD.

of women in the African developing nations,³⁶ and which hinder the achievement of sustainable development in the developing nations of Africa, including Nigeria.

It has been reported that in the developing countries, including Nigeria, women suffer more adversely from factors that contribute to unsuitability of development. It was reported that 70% of world's poor who are far more vulnerable to environmental damage are women, 85% of people who are from climate induced disasters are women, while 75% of environmental refugees are also women.³⁷ Many women in Nigeria³⁸ are still illiterates, extremely poor³⁹, coupled with the fact that they are mostly not accessible to information on issues that would enhance the sustainability of their developments.⁴⁰

³⁶ TWN Online, 'Declaration on Africa's development challenges' (made at the Joint Council for Development and Social Science Research in Africa (CODESRIA) and the Third World Network – Africa (TWN-Africa) Conference on Africa's Development Challenges in the New Millennium held in Accra on 23-26 April 2002). (2002) No. 282 *Third World Economics* <<http://www.twinside.org.sg/title/twe282f.htm>> accessed on 2 November 2010.

³⁷ Abdulraheem N.M, 'Gender, Feminism and Climate Change in Nigeria' (Being a paper presented at the First Faculty Workshop on Law and Climate Change in Nigeria organized by the Faculty of Law, University of Ilorin between 13th and 14th May 2010) p. 3 citing ModernGhana.com, 'Climate change affect women's livelihood' <http://www.modernghana.com/life_style/417/16/climate_change> p.2 accessed on 10 April 2010.

³⁸ Especially at the rural communities.

³⁹ Lister R, "Women in Poverty" in Funken K and Cooper P (eds.), *Old and New Poverty: The Challenge for Reform* (Rivers Oram Press, London 1995) p.12.

⁴⁰ Akoji O, 'Impact of Gender Discrimination and Poverty among women in Nigeria: Challenges and Strategies for their elimination' (2010) 3(2) Kogi State University Bi-Annual Journal of Public Law, pp. 377 – 384. See also Abimiku A.C, 'Poverty and the Nigerian Economy: A Gender Perspective' (2006) 7(1) *African Journal of Economy and Society*, pp.136 – 145; Abdulraheem N.M, 'Rights of Women in the Pre-Colonial and Post-Colonial Era in Nigeria: Prospects and Challenges' (2010) 3(2) Kogi State University Journal of Public Law, pp. 90 – 91; Nasir J.M, 'Women's Rights in Nigeria' in Tabiu M and Ladan M.T (eds.), *Individual Rights and Communal Responsibility in Nigeria* (National Human Rights Commission, Abuja 1998) 98.

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Women in Nigeria are also usually deprived political power to participate in the decision affecting their livelihood.⁴¹ This is basically due to the norms and culture of our society, which preclude women from decision making. As a result of this, they find it difficult to get to the inner caucus where decisions on sustainable development, which may have adverse effect on their livelihoods, are being taken.⁴²

Furthermore, the Nigerian men, culturally, have better opportunities for exposure to new ideas and adapting information through both formal and informal interactions in social gathering or daily meeting places organized by the men, than the women. Women are often not granted with as much mobility as men, because of societal restrictions, they are therefore isolated from information about sustainable development.⁴³

All these basically contravene the true spirit of section 17 of the Constitution of the Federal Republic of Nigeria 1999.⁴⁴ The section enshrines the social objectives of Nigeria as a State as it declares that; 'the State social order is founded on ideals of social objectives Freedom, Equality and Justice'⁴⁵ and that every citizen shall have equality of rights, obligations and opportunities before the law⁴⁶. The section further provides that the State shall direct its policies towards ensuring that all citizens, without discrimination on any group whatsoever, have the opportunity for securing adequate means of livelihood as well as adequate opportunity to secure suitable employment⁴⁷. The section has been described

⁴¹ Akoji O, 'Impact of Gender Discrimination and Poverty among women in Nigeria: Challenges and Strategies for their elimination', p.383; Abdulraheem N.M, 'Rights of Women in the Pre-Colonial and Post-Colonial Era in Nigeria: Prospects and Challenges', pp.88 and 91.

⁴² 'Africa: Lack of Female Presence on Climate Change Panel draws Criticism' <<http://www.allafrica.com/stories/201003220088.html>> p.1 accessed on 10 April 2010 cited in Abdulraheem N.M, ibid., p. 14

⁴³ Abdulraheem N.M, ibid., p. 16

⁴⁴ Hereinafter referred to as 1999 Constitution, 1999 CFRN or CFRN 1999 as appropriate.

⁴⁵ Section 17(1) 1999 CFRN

⁴⁶ Section 17 (2)(a) 1999 CFRN

⁴⁷ Section 17(3)(a) 1999 CFRN

as the manifesto of the whole Constitution⁴⁸ because there is no doubt that, adequate means of livelihood, suitable employment and above all equal opportunities (freedom from discrimination⁴⁹) are among the foremost factors that sustain people; and when people are not adequately sustained they cannot adequately contribute to the development of their environment. It is therefore important to create a level playing ground for all.

b Poverty

One of the major issues that are paramount in engendering sustainable development in Nigeria is sustainable livelihoods and eradication of poverty. Poverty has been classified into three: absolute, relative and subjective.⁵⁰ The absolute poverty is more relevant to our discourse.⁵¹ Absolute poverty occurs where the citizens lack adequate resources particularly real income to obtain the types of diets needed to enjoy some fixed minimum standard of living; and consider some amount of basic goods and services⁵² essential.⁵³

⁴⁸ Akande J.O, *Introduction to the Constitution of the Federal Republic of Nigeria 1999* (MIJ Professional Publishers Ltd., Lagos 2000) 59

⁴⁹ The right to freedom from discrimination is entrenched in section 42 of the 1999 CFRN. But for detailed discussion this matter, see Akande J.O, *ibid*, pp. 104 – 108.

⁵⁰ Nweze N.J and Ojowu O, 'Poverty, Wellbeing and Wealth Generation in Benue State' (unpublished, 2002) cited in Akoji O, 'Impact of Gender Discrimination and Poverty among women in Nigeria: Challenges and Strategies for their elimination', p.379.

⁵¹ See generally Balogun D, 'Analyzing Poverty, Concepts and Methods', (1999) 23(4) Central Bank of Nigeria Bullion, pp.11 – 16; Kakwenda et al, *Poverty Reduction – Where stands Africa* (United Nations Development Programme, France 2000) pp.1 – 13; Meier G.M, *Lending Issues in Economic Development* (Oxford University Press, New York 1964) pp.1 – 32; Atoloye A.S.F, 'Strategy for Growth-led Poverty Alleviation in Nigeria' (1997) 35 (3) C.B.N. Economic and Financial Review, pp.298 – 314.

⁵² According to Kuper and Kupa, these goods and services include food, clothing, housing, healthcare, water, sanitation and education. See Kuper A and Kupa J (eds.), *The Social Science Encyclopedia* (Routledge, New York) pp.55 – 657.

⁵³ Miller, H.P (ed.), *Poverty "American Style"* (Wadsworth, California 1968) pp.1 – 107.

This is one social dimension that is central to the concept of sustainable development and deserves attention in its own right. This is because where a nation is ecologically sound but a large numbers of its people live in poverty, such a nation is definitely not sustainable.⁵⁴

Nigeria shows commitment in this regard by declaring that its economic objectives shall be geared towards controlling the national economy in such manner as to ensure the maximum welfare and happiness of every citizen⁵⁵; and shall direct its policy towards ensuring that the economic system is not operated in such manner as to permit the concentration of wealth or the means of production and exchange in hands of few individuals or of a group⁵⁶ and that suitable and adequate shelter, suitable and adequate food, reasonable national minimum living wage, old age care and pensions, and unemployment, sick benefits and welfare of the disabled are provided for all citizens.⁵⁷ But in Nigeria today, the true spirit of this objective seems to be yet achieved because the economic policies are still fashioned in a way that the have-nots find it difficult to set up even a small and medium scale enterprises. The hues and cries over the implementation of and compliance with the provisions Minimum Wage Act is still fresh in our minds.⁵⁸

⁵⁴ Desai N, 'Introducing Item 98: Environment and Sustainable Development', p.4

⁵⁵ Section 16(1)(b) 1999 CFRN

⁵⁶ Section 16(2)(c) 1999 CFRN

⁵⁷ Section 16(2)(d) 1999 CFRN

⁵⁸ For general discussions and overview of the national minimum wage crisis, see Editorial, 'The national minimum wage crisis', National Mirror (Nigeria, 7 July 2011) <http://nationalmirroronline.net/editorial/15690.html> accessed on 10 October 2011; Uzundu, J, 'Crippled by wage crisis', Nigeria News World Magazine (Nigeria, 24 October, 2011) <<http://www.nigeriannewsworld.com/content/crippled-wage-crisis>> accessed on 19 October 2011; Kolawole, S, 'The new minimum wage fiasco', ThisDay (Nigeria, 24 July 2011) <http://www.thisdaylive.com/articles/the-new-minimum-wage-fiasco/95572/> accessed on 10 October 2011; Onuegbu, H.C, 'The New Minimum Wage: Strategies For Effective Public/Private Sector Management', Newsdiaryonline (Nigeria, Sun 26 September 2010) http://www.newsdiaryonline.com/chika_wage.htm accessed on 19 October 2011; Mordi, R, 'Storm over Minimum Wage', The Tell (Nigeria, 26 September 2011) <http://www.nigeriannewsworld.com/content/crippled-wage-crisis> accessed on 10 October 2011.

The harsh effect of oil drilling and spillage on the Niger Deltans (alongside the agitation for increment in the derivation fund) is yet to be fully addressed. In fact, with the indices of standard of living of an average Nigerian today, it cannot be said that the material resources of the nation are harnessed and distributed as best as possible to serve the common good as provided in the Constitution.⁵⁹ All these are factors building up the poverty stock in our nation. Therefore attacking poverty is relevant to sustainable development in its own right.

c Legislative Impetus and Political Will

Laws and regulations suited to country-specific conditions are among the most important instruments for transforming environment and development policies into action, not only through “command and control” methods, but also as a normative framework for economic planning and market instruments.⁶⁰

While there is continuous need for improvement of law in all countries, many developing countries have been affected by shortcomings of laws and regulations.⁶¹ To effectively integrate environment and development in the policies and practices of each country, it is essential to develop and implement integrated, enforceable and effective laws and regulations that are based upon sound social, ecological, economic and scientific principles.⁶² It is equally critical to develop workable programmes to review and enforce compliance with the laws, regulations and standards that are adopted.⁶³ But generally, many African nations including Nigeria lack the political will in enforcing strong control mechanisms.⁶⁴

⁵⁹ section 16 (2) (b) 1999 CFRN

⁶⁰ UN Economic and Social Development, ‘Core Publications: Agenda 21’, paragraph 8.13 <http://www.un.org/esa/dsd/agenda21/res_agenda21_08.shtml> accessed on 6 September 2010.

⁶¹ Ibid.

⁶² Ibid., paragraph 8.14

⁶³ Ibid., paragraph 8.14

⁶⁴ Forje J.W, ‘Enhancing sustainable governance and development in Africa – a reassessment of current challenges and future prospects’, p.15

While many of the stated goals of the New Partnership for African Development (NEPAD)⁶⁵ may be well-intentioned, the development vision and economic measures that it canvasses for the realization of these goals are flawed.⁶⁶ Consequently, NEPAD may be unable to make real contribution to addressing the developmental problems facing the African nations; rather, it will reinforce the hostile external environment and the internal weaknesses that constitute the major obstacles to Africa's development.⁶⁷

However, despite that Nigeria is faced with weak socio-economic conditions, overwhelmed by such problems as critical poverty, illiteracy, high infant mortality, malnutrition and security challenges, which are all factors hindering sustainable development, we still lack the will and ability to deal with these issues due to lack of resources, and low political and institutional capacity. There is often an absence of a democratic, autonomous and empowered society and a competent and honest bureaucracy, necessary to formulate and implement public policy initiatives. In addition the relative novelty of the idea of sustainable development in Nigeria means that the issue is frequently either not comprehensively understood by the government or is not given the desired attention like the other developed countries.⁶⁸

A corollary to this is the antithetical effect of the provisions of chapter 2 and section 6 (6) (c) of the Constitution of the Federal Republic of Nigeria 1999. Chapter 2⁶⁹ contains the Fundamental Objectives and Directive Principles of State Policy, which are direct offshoots of international treaties on human rights and

⁶⁵ Which Nigeria is a signatory

⁶⁶ TWN Online, 'Declaration on Africa's development challenges'.

⁶⁷ Ibid.

⁶⁸ Jansen M, 'Influences upon sustainable product development in the developing world' (UNEP Working Group on Sustainable Product Development, The Netherlands 1994) p.19

⁶⁹ The chapter 2 comprises of sections 13 – 24 CFRN 1999.

good governance.⁷⁰ These treaties generally define the fundamental economic, social, and cultural rights of individuals.⁷¹ These rights⁷² generally bother on factors that contribute to the continuous improvement of living conditions. According to De Villiers, the principal purpose of this class of rights is “to place the state under a legal obligation to utilize its available resources maximally to correct social and economic inequalities and imbalances”.⁷³ That is, it is the state’s duty to improve the standard of living. These rights are of particular relevance to the developing countries like Nigeria where poverty levels are high and government is invariably looked up to as the provider of social amenities.⁷⁴

The Nigerian Constitution while purporting to uphold the above opinions of De Villiers and Chand provided in its chapter 2 duty of the government to ensure the provision of infrastructures and facilities that will enhance democracy and social justice,⁷⁵ national integration,⁷⁶ economic self-reliance,⁷⁷ freedom, equality and justice,⁷⁸ adequate and equal educational opportunities,⁷⁹ improved environment,⁸⁰ and preservation of Nigerian cultures.

⁷⁰ These include the Universal Declaration of Human Rights adopted by the United Nations General Assembly on December 10, 1948; and the International Covenant on Economic, Social and Economic Rights, which was unanimously adopted in 1966 and came into force in 1976.

⁷¹ Etudaiye M.E., ‘The municipalisation of the economic, social and cultural rights to be or not to be?’ <<http://www.unilorin.edu.ng/ejournals/index.php/uilj/article/viewFile/14/14>> accessed on 30 October 2011.

⁷² Articles 7 – 15 of the Universal Declaration of Human Rights.

⁷³ De Villiers B, ‘The Protection of Social and Economic Rights: International Perspectives’, Paper 9 published by Centre for Human Rights, University of Pretoria May 1996. The paper can also be viewed at www.chr.up.ac.za/centre_publications/occ_papers/occ9.htm

⁷⁴ Chand H, *Nigerian Constitutional Law* (Santosh Publishing House, Modinagar, India, 1981) p. 38

⁷⁵ Section 14 CFRN 1999.

⁷⁶ Section 15 CFRN 1999.

⁷⁷ Section 16 CFRN 1999.

⁷⁸ Section 17 CFRN 1999.

⁷⁹ Section 18 CFRN 1999.

⁸⁰ Section 20 CFRN 1999.

⁸¹ But as laudable as those provisions could have been to the advancement of better living for Nigerians,⁸² it was turned a mirage for the citizens by the provision of section 6 (6) (c) of the Constitution. This latter section expressly precludes the judiciary from entertaining any complaint from any citizen 'as to whether any act or omission by any authority or person or as to whether any law or any judicial decision is in conformity with the Fundamental Objectives and Directive Principles of State Policy set out in Chapter 2 of this Constitution.'⁸³ It has been argued by several authors and scholars that the non-justiciability of the provisions in chapter 2 is inimical to every principle of sustainable

⁸¹ Section 21 CFRN 1999.

⁸² These without any doubt are the planks upon which the principles of sustainable rests

⁸³ It is this position that is popularly referred to in legal parlance as the 'non-justiciability' rule. See ML Uwais, Fundamental Objectives and Directive Principles of State Policy: Possibilities and Prospects, in CC Nweze, ed., Justice in the Judicial Process (Essays in Honour of Honourable Justice Eugene Ubaezonu, J.C.A., Chapter 5, at p. 179; Otaru R, 'Fundamental Objectives and Directive Principles of State Policy: The Need for Amendment to Ensure their Justiciability', (2006) 11 The Jurist, p. 66; Okere B.O, 'Fundamental Objectives and Directive of State Policy under the Nigerian Constitution' (1983) 32 (1) *The International and Comparative Law Quarterly*, 214; Alabi M.O.A, 'Fundamental Objectives and Directive Principles Under the Nigerian Constitutional Law', (2006) 11 The Jurist, pp. 77 and 82; Abikan A.I, 'Constitutional Impediments to the Enthronement of Shariah in Nigeria' (2006) 2 UILJ, pp. 185, 202-203; Otteh J, *The Challenge for Socio-Economic Rights Litigation in Nigeria ...Hurdles and Prospects in ESC Rights-Developing a Training Agenda for Nigeria* (Legal Research and Resource Development Centre, Roundtable Series, 1998); Onyekpere E, 'Justiciability of Economic, Social and Cultural Rights', (1997) 2 (1) LASER Contact; Eze O and Onyekpere E, *Study on the Right to Health in Nigeria* (Shelter Rights Initiative, 1998) p. 36; Centre for Social Justice Limited by Guarantee, 'Justiciable Constitutionalisation of Economic, Social and Cultural Rights - A framework for action' (Being a Contribution to the Planned Review of the Constitution of the Federal Republic of Nigeria 1999) <: http://csi-ng.org/prog_files/2010-03-17_JUSTICIABLE%20CONSTITUTIONALISATION%20OF%20SCR.pdf> accessed on 30 October 2011.

development.⁸⁴ But others have opined with optimism that with political will, Nigeria can go some way towards enforcing the provisions of the chapter.⁸⁵ However while the call for justiciability of the provisions in Nigeria is now gaining recognition through international courts,⁸⁶ scholars have hoped that the government would invoke the spirit of section 12 of the Constitution to implement the provisions.⁸⁷

d Judicial administration and access to justice

According to John Wilson Forje, 'successful democratization process requires/depends on many interrelated input factors, for example, pluralism, participation, transparency' among other things. However, he pointed out that pluralism requires an independent judiciary that impartially administers the law, which in turn, requires attitudes that support pluralism and a

⁸⁴ For the different ways at which the 'non-justiciability' negatively affect living standards in Nigeria, see: Etudaiye M.E, op. cit., pp. 209 – 212, Abikan I, ibid., Olorode O, 'University Education in Nigeria Yesterday, Today and Tomorrow' (Public lecture delivered under the auspices of the Remo Branch of the Olabisi Onabanjo University Alumni Association on December 5, 2007); Achebe C, 'A Hero Returns' monitored on the British Broadcasting Corporation (BBC) World Service at 09.00 hours G.M.T. on March 2, 2009; Iyayi, 'Nigeria's Political Class Thrives on Corruption' (Nigeria, Daily Sun, 1st September, 2008) pp. 4 and 31

⁸⁵ Akande J.O, 'Fundamental Objectives and Directive Principles of State Policy within the Framework of a Liberal Economy' (Being a paper presented at the National Conference on Issues in the 1999 Constitution, Abuja, 26-28 October 1999) p.8

⁸⁶ The Community Court of Justice of the Economic Community of West African States held in the case of *SERAP vs Federal Republic of Nigeria and Universal Basic Education Commission* (ECW/CCJ/APP/08/08 delivered on 27th October 2009) that the right to education (which is one of the provisions in chapter 2) can be enforced before the Court and dismissed all objections brought by the Federal Government (FG), through the Universal Basic Education Commission (UBEC), that education is "a mere directive policy of the government and not a legal entitlement of the citizens". According to the plaintiff's counsel, Mr. Femi Falana, "This is the first time an international court has recognized citizens' legal right to education, and sends a clear message to ECOWAS member states, including Nigeria and indeed all African governments, that the denial of this human right to millions of African citizens will not be tolerated."

⁸⁷ Centre for Social Justice Limited by Guarantee, op. cit., p.18.

bureaucracy that is impartial and prepared to serve which ever government is elected to office.⁸⁸

In Nigeria, the role of the judiciary in engendering sustainable development cannot be undermined. Thus, the judiciary must be equipped to effectively serve as the vanguard of the rights of the people.⁸⁹

In some other developing countries, like India, environmental right has been adequately entrenched in the body of their laws. Thus citizens in such countries have access to judicial remedies for environmental injuries apart from the traditional public nuisance solution. Individuals and civil societies can approach the court to seek remedy for environmental injuries caused to their communities. This was made possible through the independence, positive judicial activism and virility of their judiciary.⁹⁰

But Nigeria is still bogged with the non-justiciability of issues relating to environment and other social needs.⁹¹ Moreover, the recent happenings at the helm of our judicial hierarchy have started eroding the confidence of the common man in the rule of law hype.⁹²

However, the Nigerian government and legislature should establish judicial and administrative procedures for legal redress and remedy

⁸⁸ Forje J.W, 'Enhancing sustainable governance and development in Africa - a reassessment of current challenges and future prospects', p.15

⁸⁹ Thus the spirit of section 17 (1)(e) 1999 CFRN must be adequately complied with. See Taiwo L.O, 'Democracy and the Rule of Law' in Fatula O, et al (eds.), *Law, Politics & Development: The Challenges of an Emerging Mega-City* (N.B.A. Ikeja Branch, Lagos 2010) p.25. see also Kameri-Mbote P and Odote C, 'Courts as Champions of Sustainable Development: Lessons from East Africa', (2009) Sustainable Development Law & Policy, p. 31

⁹⁰ Joshi A, 'Application of the Principles of Sustainable Development by the Indian Judiciary' available on <http://www.ignou.ac.in/schools/soss/FINAL%20CONFERENCE/full%20papers/f1/Asha%20Joshi.pdf> accessed on 6 September 2010.

⁹¹ See chapter 2 of the Constitution of the Federal Republic of Nigeria 1999. *Per contra* section 6(6)(c) CFRN 1999.

⁹² Mumini A and Ajanaku I, 'Crisis in Judiciary unfortunate' *Unilorin Watch* (Nigeria, May 2011) p.1

for actions affecting development and infringe on people's rights under the law; and should provide access to individuals, groups and organizations with recognized legal interests.⁹³

e Corruption

Corruption in Nigeria is a development issue.⁹⁴ Generally, no country can bear the costs of corruption, which impedes development and minimizes the ability of the government to reduce poverty. Effectively addressing corruption in African countries, which includes Nigeria, has become a development imperative.⁹⁵ Corruption is widespread⁹⁶, and it is generally acclaimed that corruption increases public debts.⁹⁷

Once corruption becomes entrenched in the polity of a nation, its negative effects multiply.⁹⁸ It induces cynicism, because people begin to regard it as the norm.⁹⁹ It undermines social values because people find it easier and more lucrative to engage in corruption than to seek legitimate employment.¹⁰⁰ It erodes governmental legitimacy because it hampers the effective delivery of public goods and services. It limits economic growth because it reduces the amount of public resources, discourages private

⁹³ UN Economic and Social Development, para. 8.18

⁹⁴ Ochonu M.E, 'Myths and Fallacies of African Corruption' Unilorin Watch (Nigeria, May, 2011) p.39

⁹⁵ See Policy Forum-Documents on 'Corruption and Development in Africa' GCA/PF/N.2/11/1997 cited in Lawal G, Corruption and Development in Africa: Challenges for Political and Economic Change, (2007) 2 (1) Humanity & Social Sciences Journal, p. 1

⁹⁶ Imam-Tamim M.K, 'Effect of Corruption on Development in our Society: The Islamic Remedy: Roles and Responsibilities of Muslim Youth' (Being a paper presented at the 5th Annual Youth Week Celebration of NASFAT Youth Wing of Kwara State Zone held at Kwara State School for Special Needs, Apata Yakuba on 24th December 2011) p.3

⁹⁷ Forje J.W, 'Enhancing sustainable governance and development in Africa – a reassessment of current challenges and future prospects', p. 15

⁹⁸ See *A-G Ondo State v A-G Federation & Ors* (2002) 6 SCNJ 1 at p.39 (per Uwais, JSC) and p.68 (per Ogwuegbu, JSC)

⁹⁹ Imam-Tamim, M.K, op. cit., pp.6 – 7.

¹⁰⁰ Ibid.

investment and saving and impedes the efficient use of government revenue and development assistance funds.¹⁰¹

In Nigeria, corruption has been at the centre of development and it is an impediment of true and real development in our society.¹⁰² Corruption has ravaged virtually the entire Nigerian system, causing the country to be among the most corrupt in the world, and the consequences of corrupt practices are that they have affected and hindered the political and economic development in our country.¹⁰³ Drastic measures must be put in place to curb these acts.¹⁰⁴

f Corporate social responsibility and access to information

The contribution of the private sector in sustaining development in Nigeria cannot be overemphasized. Although, there is bound to be conflict of interests between how private sector run their organizations and balancing what they churn out to partner the government in furthering the sustainable development. This is because we need to realize that the first objective of the private sector is to maximize profit.¹⁰⁵

¹⁰¹ See Policy Forum – Document on ‘Corruption and Development in Africa’.

¹⁰² Mu’azu M.Y, ‘Causes and effects of corruption on society development’ (Presented at a seminar Organized by the code of conduct Bureau, held in Jigawa 3 Star Hotel, Dutse, on 14th November, 2000) p.4

¹⁰³ Lawal G, Corruption and Development in Africa: Challenges for Political and Economic Change, p. 2

¹⁰⁴ See generally: N.B.A. Ikeja Branch (eds.), *Fawehinmiism: Corruption and the Survival of the Nigerian Nation* (N.B.A. Ikeja Branch and Nigerian Law Publications Ltd. 2007); Arowolo D, ‘The State, Bureaucracy and Corruption in Nigeria’ (2010) 8 (3) Academic Leadership Online Journal <http://www.academicleadership.org/article/THE_STATE_BUREAUCRACY_AND_CORRUPTION_IN_NIGERIA> accessed on 30 November 2011; Igbuzor O, ‘Youth and the War against Corruption in Africa: Roles and Policy Options’ (A paper presented at the National Youth Summit on Corruption and Corrupt Practices in Nigeria organised by Africa Leadership Forum on September 9, 2005 at Ota, Ogun State, Nigeria) p.13; Kadir O.R, ‘Independent Corrupt Practices and Other Related Offences Act 2000: An Examination of Islamic and Common Law Perspectives’ (2003) 8 The Jurist pp.175 – 183; Lawal G, ‘Corruption and Development in Africa: Challenges for Political and Economic Change’ (2007) 2 (1) Humanity & Social Sciences Journal.

¹⁰⁵ Forje J.W, ‘Enhancing sustainable governance and development in Africa – a reassessment of current challenges and future prospects’, p.13

Both political theorists and practitioners have come to the realization that it is not always the state institutions and policies that ensure good governance but the *third realm*, civil society.¹⁰⁶ The civil society plays a very remarkable role, especially, when it comes to issues involving the public sphere in Africa. Thus a vigilant civil society can contribute to the achievement of social development programmes by limiting corruption and strengthening the accountability of the government and other responsible agencies¹⁰⁷.

Although there are often inadequate communication channels and high illiteracy rates in developing countries, the private sector through the media usually plays a critical role in disseminating information which shapes peoples' attitudes towards sustainable (product) development. It provides a medium to reach people, raising public awareness, especially the literate working population in urban areas (who widely read newspapers) and among the elites. The media can demonstrate both the need and technical and economic feasibility of sustainable development and supported by facts and examples¹⁰⁸.

Access to information is, generally, regarded as the ability of the citizen to obtain government – held information. That is “real” information useful and practical, and capable to help the citizen to make an informed opinion on an issue and not simply a barrage of government propaganda. Free access to information, apart from being an essential aspect of democratic governance, is also regarded as a fundamental right of the individuals as well as a vital index in the sustenance of development in any given society. Without the freedom to think one's thoughts, conceive ideas, formulate views and express them freely, there

¹⁰⁶ Arko-Cobbah A, 'Promoting sustainable development in Africa: civil society and free access to information', p.9

¹⁰⁷ Arko-Cobbah A, 'Promoting sustainable development in Africa: civil society and free access to information', p.9

¹⁰⁸ Jansen M, 'Influences upon sustainable product development in the developing world', p.22

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is no possibility of democratic governance, and thus good
governance.¹⁰⁹

The press therefore needs to be independent; capable of asking
hard-hitting questions, monitoring progress, but unfortunately,
this is often not the case in our country ¹¹⁰ thus calling for
intervention of the private sector through the civil societies.

Although the Freedom of Information (FOI) Act 2011¹¹¹ has since
been enacted in Nigeria, its enforcement and compliance still
leaves much to be desired as public officers still either are
oblivious of its existence or deliberately continue to hoard public
information even after their attentions are drawn to the existence
of the FOI Act.¹¹²

The Act establishes the "... right to any person to access or request
information, whether or not contained in any written form, which
is in the custody or possession of any public official, agency or
institution howsoever described..."¹¹³ The applicant for such
information needs not demonstrate any specific interest in the
information being applied for.¹¹⁴ The Act also mandates public
institutions to record and keep information about all its activities,
operations and businesses¹¹⁵ and ensure proper organization and

¹⁰⁹ Byrne A, 'University libraries and intellectual freedoms' (1999) 30(2)
Australian Academic Research Libraries <<http://archive.ifla.org/aife/papers/others/byrne2.htm>> accessed on 6 September 2010.

¹¹⁰ Jansen M, 'Influences upon sustainable product development in the
developing world', p.22

¹¹¹ An Act enacted to make public records and information freely available,
provide for public access to public records and information, protect public
records and information to the extent consistent with the public interest and the
protection of personal privacy, protect serving public officers from adverse
consequences for disclosing certain official information and establish procedures
for the achievement of those purposes and related purposes thereof.

¹¹² Ibrahim H.J and Abubakar M, 'Story behind Kwara's oil discovery', Weekly
Trust (Nigeria, Saturday, 20 August 2011) p.3

¹¹³ Section 2 (1) of the FOI Act.

¹¹⁴ Section 2(2)

¹¹⁵ Section 3(1)

maintenance of all information in its custody in a manner that facilitates public access to such information.¹¹⁶

Notwithstanding the express provision of the FOI Act allowing citizens to seek and have access to legitimate information about good governance from public institutions,¹¹⁷ public officials have continued to devise tricks to deny access to such information.¹¹⁸ It should also be noted even as much as there is little or no awareness about the existence of this Act among the populace, the few who are aware of its existence,¹¹⁹ fail to explore the legal remedy provided in the law.¹²⁰

g Good Governance

There is an essential link between democratic and accountable government (otherwise and popularly known as good governance) and the ability to achieve sustained economic and social development. Good governance means competent management of a country's resources and affairs in a manner that is open, transparent, accountable, equitable and responsive to people's needs.¹²¹ Good governance is an essential precondition for sustainable development. Poor governance stifles and impedes development. In countries where there is corruption, poor control of public funds, lack of accountability, abuses of human rights and excessive military influence, development inevitably suffers.¹²²

¹¹⁶ Section 3(2)

¹¹⁷ See generally sections 2, 3, and 10 of the FOI Act 2011. See also Open Society Justice Initiative, *Understanding the Nigerian Freedom of Information Bill* (Nigerian Freedom of Information Coalition) 36pp.

¹¹⁸ Ibrahim H.J and Abubakar M, 'Story behind Kwara's oil discovery'. See also 'FOI Bill Confusion: Professionals React', Unilorin Watch (Nigeria, May 2011) p.1.

¹¹⁹ Especially the journalists and legal practitioners

¹²⁰ Section 2(3) of the FOI Act which gives any person entitled to the right to information under the Act the right to institute proceedings in a court to compel any public institution to comply with the provisions of the Act.

¹²¹ Commonwealth of Australia, *Good governance: Guiding principles for implementation* (Australian Agency for International Development (Aus AID), Canberra 2000) p.3

¹²² Ibid, p. 5

Enhancing sustaining development and democratic governance depends to a large extent on the nature of the political regime in place, the structure and functioning of the regime, kind of leadership and the capacity and capability of the regime to ensure the articulation and aggregation of its policies.¹²³ A democratic society is an open and transparent society and encourages the free creation, pursuit and flow of information and thus elicits the effective participation of civil society in local, national and international institutions and processes.¹²⁴

According to John Forje, a major drawback in accountability in the majority of African governments and administrative systems (Nigeria inclusive) is the excessive concentration of powers in the office of the Presidency and subsequently in the Ministry, Governors, and local government officers. He cited Madison arguing that "the accumulation of all powers, legislative, executive and judicial in the hands, whether of one, a few, or many and whether hereditary, self-appointed or elected may justly be pronounced the very definition of tyranny."¹²⁵ A democracy functions best only when all actions are open to question, and when we require the highest levels of accountability.¹²⁶

Stakeholders on development in Africa, at a conference¹²⁷, noted the uneven progress of democratization and in particular of the expansion of space for citizen expression and participation.¹²⁸ They further noted that the most fundamental flaws of the NEPAD include, the fact that in spite of its proclaimed recognition of the central role of the African people to the plan, the African

¹²³ Forje J.W, 'Enhancing sustainable governance and development in Africa - a reassessment of current challenges and future prospects', p. 4

¹²⁴ Ibid, p. 9

¹²⁵ Ibid, p. 4

¹²⁶ Krauss L.M, 'The Citizen-Scientist's Obligation to Stand Up for standards', The New York Times (United States 22 April 2003) <<http://www.ibi.gov/Education/ELSI/KraussNYTimes4-22-03.html>> accessed on 6 September 2010.

¹²⁷ Joint CODESRIA-TWN-Africa Conference on Africa's Development Challenges in the New Millennium held in Accra on 23-26 April 2002.

¹²⁸ TWN Online, 'Declaration on Africa's development challenges'

people have not played any part in the conception, design and formulation of NEPAD¹²⁹ thus making the enforcement of its policies non-participatory.

The central challenge for building sustainable, effective governance and deepening democracy is that of constituting and reconstructing the key institutions for economic growth and democratic governance. Democracy feeds into economic growth and economic growth feeds into democracy to create sustainable development.¹³⁰ Underscoring this development is that of human capacity development.¹³¹ Therefore, democracy, development and respect for human rights and of fundamental freedoms are the interdependent and synergic processes required for an effective sustainable development.¹³²

h Technical knowledge

Technology is essentially the application of knowledge to the solution of practical problems¹³³ and to succeed in doing this, improving human capital development is vital. But this has proven to be a challenge for Nigeria like many other developing nations. The challenges of this millennium are that of ideas. Our societies are now 'knowledge driven' and this requires skilled human resources potential, sense of direction, quality leadership, accountability, transparency, productivity, fair competition, and equity in the distribution of national wealth.¹³⁴ No society can in this millennium afford to bypass the impact of emerging technologies in the development process.¹³⁵

¹²⁹ TWN Online, 'Declaration on Africa's development challenges'

¹²⁰ Forje J.W, 'Enhancing sustainable governance and development in Africa – a reassessment of current challenges and future prospects', p.10

¹³¹ Ibid, p.11

¹³² Ibid, p.9

¹³³ Jansen M, 'Influences upon sustainable product development in the developing world', p.36

¹³⁴ Forje J.W, 'Enhancing sustainable governance and development in Africa – a reassessment of current challenges and future prospects', p.12

¹³⁵ Ibid, p. 12

Knowledge is therefore required of the state of affairs and awareness concerning the issue of sustainable development in Nigeria.¹³⁶ This is because Nigeria along with other developing countries are at a disadvantage due to the often high illiteracy rates, a lack of basic education and poor communication channels with which to reach huge populations over vast areas.¹³⁷ Majority of the citizens of developing nations lack environmental education awareness and this is a very big problem in introducing sustainable development projects, because the people, of whom the majority is farmers, do not know the meaning and importance of sustainability in development.¹³⁸

Ensuring that 'Education for All' as propounded both under the NEPAD and the MDG treaties include also all rural people is an urgent task for the African nations if we are to achieve sustainable development as well as the MDGs, which are also subsidiaries of sustainable development. Among decision-makers, however, there is only a low level of awareness of the impact of rural people illiteracy on development. Moreover, many of the weaknesses in basic education services in rural areas exist because countries lack adequacy in knowledge, trained people, experience, resources and infrastructure to plan and deliver effective basic education services to rural people. In addition, a lack of adequate coordination mechanisms between Ministries of Education, Ministries of Agriculture and civil society remains to be addressed in most developing countries which include Nigeria.¹³⁹ Stringent efforts

¹³⁶ Jansen M, 'Influences upon sustainable product development in the developing world', p. 17

¹³⁷ Ibid, p. 17

¹³⁸ Correspondence with Mr. Kondo, Executive Chairman, Morogoro Environment and Development Foundation, Tanzania cited in Jansen Maaik, Ibid, p.17

¹³⁹ Avila M and Gasperini L, 'The MDGs and Sustainable Rural Development in Sub-Saharan Africa: Challenges and Implications for Education for Rural People (ERP)' (2005) (Paper presented at the Ministerial Seminar on Education for Rural people in Africa: Policy Lessons, Options and Priorities organized by the Food and Agriculture Organization of the United Nations (FAO), International Institute for Education Planning (IIEP/UNESCO), and the Association for the Development of Education in Africa (ADEA) on 7-9 September 2005, Addis Ababa, Ethiopia) <http://www.fao.org/sd/dim_kn2/kn2_051101_en.htm> accessed on 6 September 2010.

should therefore be made to devise effective means to develop knowledge about sustainable development, through research and by training, communication and education.

Knowledge may be the one of the most powerful weapon against unsustainable development in Nigeria like other developing nations, which is characterized by pervasive and overlapping high levels of poverty, hunger, illiteracy, illness, job insecurity, eco-degradation and international dependence.¹⁴⁰ Knowledge is becoming the chief currency of the modern age and a decisive resource for sustainable development.¹⁴¹

The CFRN 1999 provides that the government shall ensure that there are equal and adequate educational opportunities at all levels¹⁴², promote science and technology¹⁴³; and strive to eradicate illiteracy¹⁴⁴ in Nigeria. It ultimately provides that there shall be FREE education at all level¹⁴⁵. But this section is also affected by the *locus standi* ouster contained in section 6 (6) (c) of the CFRN 1999. Therefore as there is no enforceable right to education in Nigeria, no citizen can force the government to provide education.¹⁴⁶ Meanwhile, right to education (knowledge) has always been universally recognized¹⁴⁷ through declarations, covenants and conventions, which acknowledge the inalienable

¹⁴⁰ Hamel J.L 'Unleashing the Power of Knowledge for Sustainable Development in Africa: Fundamental issues for Governance and Meeting MDGs', (Economic Commission for Africa, Addis Ababa 2005) p.5. <http://www.uneca.org/estnet/Ecadocuments/knowledge_for_sustainable_development.doc> accessed on 6 September 2010. It should be noted that this paper is based on a shorter paper published as Hamel J.L, 'Knowledge for sustainable development in Africa: towards new policy initiatives', (2005) 2 (3/4) World Review of Science, Technology and Sustainable Development, pp. 216-243.

¹⁴¹ Hamel J.L, Ibid., p.5

¹⁴² Section 18(1) of the 1999 CFRN

¹⁴³ Section 18(2) of the 1999 CFRN

¹⁴⁴ Section 18(3) of the 1999 CFRN

¹⁴⁵ Section 18(3)(a)-(d) 1999 CFRN

¹⁴⁶ Akande J.M, op. cit., p.60

¹⁴⁷ Fawehinmi G, *People's Right to Free Education (At All Levels)* (John West Publications Ltd., Lagos 1974) 1

right of people to education.¹⁴⁸ This right has crystallized into a natural right.¹⁴⁹ As at 1974, the right to knowledge has been duly acknowledged by some of the present day developing nations and was given a prime position in their constitutions.¹⁵⁰

It is thus clear that education generally underpins sustainable development and contributes to the pursuit of sustainable development by members of the society.¹⁵¹ In fact a number of scholars and jurists have directly linked the development in a society to its educational system.¹⁵² Academia should therefore strive to educate the people and enhance levels of awareness, promoting

¹⁴⁸ See generally, Article 26 of the Universal Declaration of Human Rights (adopted on 10th December 1948); Article 2 of the Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms (signed at Rome on 4th November 1950); the Act of Athens of the International Commission of Jurists 1955; Articles 1, 3 and 4 of the Convention against Discrimination in Education (adopted on the 14th of December 1960); Article 13 of the International Covenant on Economic Social and Cultural Rights (annexed to Resolution 2200 (XXI) of the General Assembly of the United Nations and adopted on 16th December 1966 but opened for ratification and accession on 19th December 1966); the Constitution of the United Nations Educational and Scientific Organisation.

¹⁴⁹ Fawehinmi G, op. cit.

¹⁵⁰ The following developing countries like Nigeria have made constitutional provisions or other statutory enactments entrenching right to education: Afghanistan, Algeria, Argentina, Brazil, Burundi, Chad Republic Colombia, Congo Brazaville, Congo (Leopoldville) Zaire (now Congo D.R.), Ecuador, Guinea Republic, Indonesia, Lebanon, Libya, Madagascar, Philippines, Morocco, Rwanda, Senegal, Somalia, Togo, etc.

¹⁵¹ Fawehinmi noted that "In Nigeria only education (made available to all free) can make development possible because education is itself one of the development's supreme goals." See Fawehinmi G, op. cit., p.29. See also Awolowo O, *The Peoples Republic* (Oxford University Press, London 1968) pp.305 and 311; Awolowo O, *Strategy and Tactics of the Peoples Republic* (MacMillan & Co. (Nig.) Ltd. 1970) p.50

¹⁵² Such scholars include Adam Smith in his book *The Wealth of Nations*, Frederick Harbison and Charles Myers in *Education, Manpower and Economic Growth*, Alfred Marshall in his book, *Principle of Economics*, 8th ed. (1930), John Stuart Mill in his book, *The Principle of Political Economy* (1867), Karl Max in his *Capital*, vol. I, John Vaizey in his *The Economics of Education* (1962), Theodore W. Schulz in *Investment in Human Capital* (Free Press America 1971).

attitude changes within the society, thus encouraging informed decisions on issues bordering on how to ensure sustainable development.¹⁵³ Although as earlier pointed out, the right to education has begun to get legal and judicial recognition.¹⁵⁴

Solutions towards Surmounting the Challenges

After all said in this paper, it is our desire to propose some way-outs towards mitigating, minimizing or eradicating some of the challenges identified and this we do hereunder:

- a. To seize the opportunities offered by the wave of democratization and globalization, Nigeria must look beyond the horizon of environmental protection but develop a consistent long-term policy framework that will reduce the vulnerability of its citizens to the factors impeding the attainment of sustainable development in the country. This can be done in any of following ways: (i) fiscal consolidation, and (ii) better governance entrenched with politics of social justice and inclusion. This will definitely help reduce the external vulnerability;
- b. Nigeria should ensure good governance and reduce corruption by promoting a harmonious state/civil society/private sector partnership and participation while existing opportunities for discretionary intervention by state authorities that use these mechanisms for their own benefits must be reduced;
- c. There is an outright need to reinforce the effectiveness of government and encourage the development of the rule of law, justice, legal reforms and other measures to move the nation forward;
- d. Resources should be directed into economic incentives and the democratization process, creating a level playing field for all actors as inherent parts of the development agenda. Government should create the requisite access to appropriate

¹⁵³ Jansen M, 'Influences upon sustainable product development in the developing world', p. 17

¹⁵⁴ See footnote 85 above.

- know-how, as well as create an ability to make decisions independently and also a stable policy environment;
- e. Progress should be made towards joint technology research and development with other countries especially the developed, since the industrialized countries tend to have more expertise in high-technology areas, while Nigeria is knowledgeable in the needs of its regions.¹⁵⁵ This technological transfer could be done through various means: (i) via transnational corporations with subsidiaries in developing countries or joint ventures. This involves the dissemination of knowledge via workers, spill-over into local and related industry; (ii) via university exchanges and research institutions; and (iii) via international and bilateral aid agencies, international institutions and NGO's.¹⁵⁶
 - f. The government should ensure that there is political stability that gives the government sufficient confidence that it is not averse to openness or citizen participation in governmental decision – making;¹⁵⁷
 - g. There must be an independent judiciary system that is impartial and informed, fearless to pass judgments that may be contrary to the interests of the government.
 - h. There is also need for communications infrastructure, which does not only cater for physical needs but also established and well maintained for both travel and telecommunications, like information telecommunications technology and also personal development that takes the form of information literacy.
 - i. In matters of justiciability of the provisions of chapter 2 of the Constitution, it is imperative that the judiciary is allowed to develop jurisprudence which will ultimately improve the good governance and welfare of the people. Therefore the minimum core content of Economic, Social and Cultural

¹⁵⁵ Ibid, p.36

¹⁵⁶ Ibid, p.37

¹⁵⁷ Arko-Cobbah A, 'Promoting sustainable development in Africa: civil society and free access to information', p.8

Rights (as embodied by the fundamental objectives and directives of state policy) should be presented for constitutional recognition in the ongoing constitutional reform.

However, for any of the above recommendations to be effectively achieved, Nigeria must see them as challenges and take the following three (3) steps to address them.¹⁵⁸

The First is political will. Nigeria must recognize that these are issues which are absolutely essential to its work on development at the global level. There is much work to be done in this respect and it must be recognized that in many ways the key is the mobilization of political will.

The second is taking practical steps. Whatever efforts taken will lack credibility if they do not come out with something that people recognize as truly practical steps to carry forward the sustainable development agenda. These steps must take the form of real programmes and commitments built around certain themes.

The third is building a virile partnership. The effectiveness of what the Nigeria does to ensure sustainable development greatly depends on what its official institutions do at the national and at the global level. And, a great deal of what they can do by way of practical action could be through partnership.

Conclusion

Nigeria is one of the most environmentally favoured country on the African continent, thus, its environment should ordinarily not be under threat where its governments actually put in place the fundamental structures, institutions and policies that would ensure human development first, which in turn would automatically improve the utilization of the environmental and ecological systems, and this is the essence of sustainable development.

In this paper, we have tried to show that Nigeria's quest for sustainable development has been a tortuous one. Political

¹⁵⁸ Desai N, 'Introducing Item 98: Environment and Sustainable Development', pp.6-7.

instability, corrupt regimes, insecurity brewed by intra-community wars and unrest, strangulating international debts, trade imbalances, abject poverty¹⁵⁹ and other governance challenges¹⁶⁰ have characterized Nigeria's desire for sustainable development and require the concerted efforts of all actors to surmount.¹⁶¹ These challenges are many and growing.

Ultimately, we showed that the challenges tackling the achievability of sustainable development in Nigeria go beyond the plundering of the environment and eco-systems alone as is popularly espoused; rather, there are more governance and systems related trammels than there are environmental issues. However, we recognize the fact that all the issues involved are human related as human contributions to the achievement or otherwise of the sustainable development can never be ruled out.

¹⁵⁹ Arko-Cobbah A, 'Promoting sustainable development in Africa: civil society and free access to information', p.14

¹⁶⁰ See 2009 Transparency International East African Bribery Index, <http://www.transparency.org/news_room/latest_news/press_release_nc/2009_07_02_kenya_index.assessed> accessed on 6 September 2010.

¹⁶¹ Kameri-Mbote P and Odote C, 'Courts as Champions of Sustainable Development: Lessons from East Africa', p.37