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THE PRINCIPLES OF SUSTAINABLE DEVELOPMENT AND ENVIRONMENTAL CHALLENGES IN NIGERIA

Abstract:

The concept of sustainable development can be interpreted in different ways, but at its core is an approach to development that looks to balance different and often competing needs against an awareness of environmental, social and economic limitations in the society. Most often than not, development is driven by one particular need without fully considering the wider or future impacts. The effects of the damages this type of approach can cause should be the concern of all. When the World Commission on Environment and Development (1987) presented their report titled “our common future”, they sought to address the problems of conflicts between environment and development goals by formulating a concise approach to the understanding of the concept. The Postulation is that, both development and the environment, hitherto addressed as separate issues, could be managed in a mutually beneficial way. One implication of not doing so is environmental degradation resulting in climate change. However, the focus of sustainable development is more encompassing than just the environment; it is also about ensuring the strong, healthy and just society. This invariably involves meeting the diverse needs of all people in existing and future communities since we cannot afford to exploit our environment in such a way that would endanger our common future. The contemporary Nigerian society has not shown much effort in this regard. The period between 1989 when the Nigerian policy on sustainable development was formulated and today, has marked a period of intensive political, administrative and to a lesser extent, judicial actions against man’s activities that are delirious to the environment. The ambition of the federal government of Nigeria towards sustainable development after the Koko incidence of 1999 has been great, but her achievement remarkably small. The reason is simply and squarely due to lack of implementation of policies. This paper is basically an assessment of the challenges of sustainable development in Nigeria; the author warns that humans are transforming the planet in ways that could undermine any developmental gains. Hence, he suggests among other things that global principles of sustainable development drawn from the existing United Nations agreements be combined with some recommended proposals to achieve new sustainable developmental goals for Nigeria and other developing nations. The paper employs the philosophical tools of critical analysis and rational justification. It is also prescriptive in the sense that it recommends ways to achieve sustainable development.

Keywords:

Sustainable Development, Environment, Philosophy, Nigeria.

JEL Classification: A13

Introduction

Most countries have made significant advances both in GDP and HDI measures across the globe. However, the record of development on a world scale is open to two serious criticisms; the first being that the benefits of development have been distributed unevenly, with income inequalities remaining persistent and sometimes increasing over time. The global numbers of extremely poor and malnourished people have remained high and in some areas increased, even as the global middle class has achieved relative affluence. Secondly, there have been major negative impacts of development on the environment and on existing social structures. Many traditional societies have been devastated by development of forests, water systems and intensive fisheries. Urban areas in developing countries commonly suffer from extreme pollution and inadequate transportation, water and sewer infrastructure. Environmental damage, if unchecked, may undermine the achievements of development and even lead to collapse of essential ecosystem. The contemporary threat to the environment is the Green House Emission (G.H.E). These problems are endemic to development as it has taken place over the past half century and threatening to turn the incremental and developmental efforts of man into failure. Richard Norgaard (1994:2) has this to say:

Modernism and its more recent manifestation as development, have betrayed progress. While a few have attained material abundance, resource depletion and environmental degradation now endanger many and threaten the hopes of all to come . modernism betrayed progress by leading us into preventing us from seeing and keeping us from addressing interwoven environmental organizational and cultural problems.

The growing awareness of these challenges to traditional developmental thinking has led to the increasingly wide acceptance of the novel concept, which is “sustainable development”. The notion of sustainable development arrived from the anxieties that accompanied the triumphant rise in living standards enjoyed in the developed countries during the second half of 20th century. This unease sprang two painful realities. It had become clear that the life –sustaining role of biosphere was at risk from open-ended consumption of natural resources. Yet the urgent cause of environmental protection could not be isolated from the right of poorer countries to develop (Godwin, 2008:5).

Sustainable development receives its first major international recognition in 1972 at the UN conference on the Human Environment held in Stockholm. The term was not referred to explicitly but nevertheless, allusions were made to it and the international communities agreed to the notion now fundamental to sustainable development. When the World Commission on Environment and Development (1987) presented their report

titled “**our common future**”, they sought to address the problems of conflicts between environment and development goals by formulating a concise approach to the understanding of the concept. The Postulation is that, both development and the environment, hitherto addressed as separate issues, could be managed in a mutually beneficial way. One implication of not doing so is environmental degradation resulting in climate change. However, the focus of sustainable development is more encompassing than just the environment; it is also about ensuring the strong, healthy and just society. This invariably involves meeting the diverse needs of all people in existing and future communities since we cannot afford to exploit our environment in such a way that would endanger our common future (Umoru,2001:31). The contemporary Nigerian society has not shown much effort in popularization of the concept of sustainable development. The period between 1989 when the Nigerian policy was formulated and today, has marked a period of intensive political, administrative and to a lesser extent, judicial actions against man’s activities that are delirious to the environment (Lawrence, Vincent and Folarin, 2004:55).However, recent development seems to expose the little we have done in its gory and disappointing detail. The ambition of the federal government of Nigeria towards sustainable development after the Koko incidence of 1999 has been great, but her achievement remarkably minute. The reason is simply and squarely due to implementation of policies. In what follows therefore, we would expose the concept of sustainable development and thereafter analyze the principles as postulated by the United Nations. We recommend among other things the various steps the Nigerian government could employ to achieve sustainable development.

The paper employs the traditional philosophical tools of critical analysis and rational justification. It is also prescriptive in the sense that it recommends ways to achieve sustainable development.

Sustainable Development: Towards an understanding.

Sustainable Development has been defined in many ways, but the most frequently quoted definition is from Our Common Future, also known as the Brundtland Report(1987), which defines sustainable development as “*The development that meets the needs of the present without Compromising the ability of the future generations to meet their own needs*”. The two concepts that guide this operational definition have been held to be: The concepts of “Needs and limitations”. This implies the essential needs of the world’s poor, to which overriding priority should be given; and the ideas of “Limitations” imposed by the state of technology and social organization on the environments ability to meet present and future needs (Brundtland Report, 1987). In other words, sustainable development means: improving the quality of human life while living within the carrying capacity of supporting ecosystems (Ajayi, 1995: 25).

Every human being therefore has equal rights within the limits of the earth to the resources needed for a decent standard of living and no individual or group should deprive another of his (their) means of subsistence (Lawrence, Vincent and Folarin, 2004:54). In the same vein, Aina and Adedipe (1991:313) have argued;

While this definition may be considered as amounting to some Generalization, there is the need to contextualize it in order to expose the principles internalized therein. Essentially, the exploitation, management and use of nature's resources in a rational, practicable, coherent and comprehensive manner in a way that minimizes contradiction and duplication while enhancing co-operation and at all levels constitute the externalizations of the concept of sustainable development.

In what follows therefore, Sustainable Development is seen from the perspective of building our communities so that we can all live comfortably without consuming all of our resources. It is not just about conserving our resources, it is about changing our culture to make conservation a way of life. The earth has a natural balance and overconsumption of its resources, whether it is polluting or diverting water, or over-using land for building or agricultural or mining, or clear cutting of forests, or over-fishing the ocean or burning too many fossil fuels throws that balance off and makes it difficult for the earth to renew itself (Holmberg, 1992: 32).

Nigeria is committed to a national policy on environment that ensures sustainable development based on proper management of her natural resources in a manner which meets the needs of the present and future generations'. This requires balancing her human needs against the potential that the environment has for meeting them (Aina and Adedipe, 1991:312). All definition of sustainable development request that we view the world as a system. A system that connects space and a system that connects time, in realization of the fact, we would grow to know that air pollution in north Africa can affect the quality of air in central Africa or middle east and that the decision we make today concerning environmental usage could affect generations yet unborn. Hence, the concept of sustainable development is rooted in this type of systems thinking which helps us understand ourselves and our world.

Analysis of the Basic Principles of Sustainable Development

The principles of sustainable development refer to some abstract rules or guidelines that one can apply in order to achieve sustainable development. Various sets of principles of Sustainable Development have been proposed in the past decade some of which are: Bellagio Principles: Guidelines for the Practical Assessment of progress Toward Sustainable Development (Indicators), Principles defining Sustainable Development, Earth Charter/The Earth Charter Consultation etc. (Yusuf, 2013: 2).

However, the focus of this paper will be on the Earth Summit (UN Conference on Environment and Development in Rio de Janeiro, 1992) which approved Agenda 21 (An Action Program for Sustainable Development in the 21st century) and the Rio Declaration (United Nation, 1987).

It is apropos to state that at the Earth summit; five key documents were signed, being;

- The Rio Declaration on Environment and Development;
- Agenda 21;
- The convention on Biological Diversity(CBD);
- The United Nations Framework Convention on Climate Change(UNFCCC);and
- The statement of Forest principles.

Although not legally binding, the **Rio- Declaration** enunciated the key Principles of Sustainability including; but not limited to:

- (a)The principle of integration
- (b)The precautionary principle,
- (c)The principle of intergeneration equity and
- (d)The polluter pays principle

These will be considered briefly in turn.

The Principle of Integration

The principle of integration has been described as the basses for all other known principles of sustainable development .It naturally requires that both development considerations are taken into account in the decision making process .By this, environmental considerations are integrated into development objectives and that developmental needs are taken into cognizance in the application of environmental objectives.(Olutekunbi, 2013:57)

The Precautionary Principle

Principle 15 of the Rio Declaration states that;

In order to protect the environment, the precautionary approach shall be widely applied by states according to their capacities. Where there are threats of serious or irreversible damage, lack of full scientific certainty

shall not be used as a reason for postponing cost effective measures to prevent environmental degradation.

In New South Wales, the precautionary principle is expressed in similar terms in section 6(2) of the Protection of the Environment Administration Act 1991(NSW) (POEA ACT) where the precautionary principle is seen as a key element of the definition of ecologically sustainable development .In particular, section 6(2) (a) of the POEA Act states that in the application a precautionary principle, public and private decisions should be guided by;

1. Careful evaluation to avoid, where practicable, serious or irreversible damage to the environment; and
2. An assessment of the risk-weighted consequences of various options.

In the case of *Telstra Corporation Ltd v Hornsby Shire Council (2006)*, Preston C J provided detailed guidance on the concept of the precautionary principle and the application of note, His Honor stated that:

- The application of the precautionary principle and the concomitant need to take precautionary measures is triggered by the satisfaction of two conditions precedent or thresholds: a threat of serious or irreversible environmental damage and scientific uncertainty as to the environmental damage.
- The degree of scientific uncertainty that needs to exist in order to trigger the application of the precautionary principle varies, depending on the magnitude of environmental damage used in the formation of the first condition precedent of the precautionary principle.
- The precautionary principle permits the taken of preventive measures without having to wait until the reality and seriousness of the threat becomes fully known. This is the concept of preventive anticipation.
- The type and level of precautionary measures that will be appropriate will depend on the combined effect of the threat and the degree of uncertainty.
- The precautionary principle embraces the concept of proportionality .In applying the precautionary principle measures should be adopted that are proportionate to the threat.
- The precautionary principles of ecologically sustainable development. Precautionary measures selected should not only be appropriately having regarded to the precautionary principle itself, but also in the context of other principles of ecologically sustainable development.

The Principle of Inter and Intra Generational Equity

The Rio Declaration recognized a no of principles of equity. However, foremost of these are the principles inter and intra generational equity. Inter-generational equity is defined as meaning that that the present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of the future generations. Intra -generational equity involves consideration of equity within the present generation, such as use of natural resources by one nation state(or sector or classes within a nation state) meaning to take account of the needs of other nation states(or sectors or classes within a nation state). In other words, people within the present generation have equal rights to benefit from the exploitation of resources and from the enjoyment of a clean and a healthy environment. (Oyedepo, 2012:17)

Weiss (1992:401) has identified three fundamental principles which form the basis of intergenerational equity and hence are integrated to Sustainable Development. First, the conservation of options principle requires each generation to conserve the diversity of natural and cultural resources base in order to ensure that options are available to future generations for solving their problems and satisfying their needs. Second, the conservation of quality principle holds that each generation most maintain the quality of the earth such that it is passed on in no worse condition than in which it was received. Third, the conservation of access principle provides that each generation should give its members equitable rights that access the legacy of past generations and should conserve this access for future generations.

The Polluter Pays Principle

The polluter pays principle is essentially a principle directed to the internalization of environmental costs. This involves the internalization of environmental costs into decision making for economic and other development plans, programs and projects that are likely to affect the environment. The principle requires accounting for both the short term and the long term external environmental costs.

The number of ways this could be achieved has been highlighted to include:

- (a) Environmental factors being included in the valuation of assets and services;
- (b) Adopting the polluter pays (or user pays) principle, that is to say, those who generate pollution and waste should bear the cost of containment, avoidance or abatement;
- (c) The users of goods and services paying prices based on the full life cycle of the cost of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste :and

(d) Environmental goals, having been established, being pursued in the most effective way, by establishing incentive structures, including market mechanisms that the best placed to maximize benefits or minimize costs to develop their own and responses to the environmental problems.

The main characteristics of the PPP, is that pollution can be assessed based on some evidence of the physical effect of waste on the environment and a human reaction to that physical effect. There must be a loss of welfare due to the imposition of an external cost arising from the pollution (Binie and Boyle, 2002). The characteristics of the PPP are therefore in the definition of the principle itself. The first is that there must be a polluter, secondly, there must be an identifiable pollution and thirdly, there must be a damage that must be compensated. Fourthly, it should be achieved by the imposition of charges and taxes and lastly, it should not be subsidized. However, though the PPP has a positive effect, which is aimed at reducing pollution and making the polluter responsible for his actions, the definition and features are marred with flaws (Vito and Reibstein, 2007).

Firstly, there is ambiguity associated with identifying the Polluter. Although a Polluter is someone who directly or indirectly damages the environment or who creates conditions relating to such damage, the definition in most case is too broad and cannot be applied in all situations.

Secondly, although the principle enjoins States and regulatory institutions to take account of the principle in the development of environmental law and policy, they are not bound by international law to make the polluter pay. Article 16 of the Rio Declaration which provides that National Authority should 'Endeavour to promote' connotes that the PPP is neither absolute nor obligatory because it lacks the normative character of a rule of law. As a result, there is no general pattern of state practice and the implementation of the principle has been left to national rather than international action (Eide and Van der Berg, 2006:54).

Thirdly, although most countries have imposed taxes and charges to meet the cost of preventing, reducing and restoring the environment in line with the principle, their impact in deterring environmentally harmful activities is not impressive.

Fourthly, a large number of poor, small and medium-size firms, who cause pollution of the environment, cannot afford to cleanup and compensate and in such instances, financial aid is given to the polluting sector if that sector suffers from significant economic difficulties thereby distorting international trade which it originally set out to avoid. By the provisions of Principle 16 of the Rio Declaration, the polluter cannot shift the burden of cost internalization on subsidies so as not to distort International trade and investment. The effective use of the PPP requires a coordinated approach because environmental regulations can become a source of trade distortion if some countries

subsidize private investment in pollution control and others do not. Though the PPP has become a fundamental principle of pollution control, and the principle of non-subsidization of polluters is recognized internationally.

Application of the Principles of Sustainable Development in Nigeria

Nigeria, like other African countries, is endowed with rich human and natural resources as well as great cultural, ecological and economic diversity. However, she still struggles with developmental issues. Although Nigeria is said to be committed to a national policy on the environment that ensures Sustainable Development based on proper management of her natural resources in a manner which meets the needs of the present and future generations, there appears to be many reasons that prove otherwise (Abdullahi and Muaghalu, 2006:240). Thus, Sustainable Development is often related to all facet of human life, the challenges of sustainable development in Nigeria are but not limited to:

(a) Unsustainable Environmental practices such as bush burning, indiscriminate dumping of urban solid waste, and indiscriminate felling of trees, fisheries exploitation, and conflict over natural resources among others.

(b) Oil exploration and gas flaring effects. Festus Iyayi (2008:3) is of the opinion that, "the costs of gas flaring are staggering; these include economic/financial costs, material/legal costs, social costs, political costs".

In the area of economic and financial costs, it is documented that while over 5.7 trillion cubic feet (TCF) of associated gas was produced from 1958 to year 2000, some 5.0 TCF or 83% of this gas was flared. In energy terms, this is equivalent to about 2.8 billion barrels of oil. In 2004, Nigeria produced 770 billion cubic feet (BCF) of natural gas but consumed 325 BCF i.e.58% flared (Iyayi, 2008:4). It is pertinent to note that the impact of gas flaring most especially on the ozone layer leaves much to be desired.

(c)The Challenges of Environmental Justice

There is compelling evidence between environmental problems and social injustice. Environmental justice is the idea that brings both together. It is worthwhile considering the possibility of tackling both social exclusion and environmental problems through integrated policies and development. In the opinion of Carolyn Stephens (2001:5):

Struggle for Justice as we seek access to our Environment and its resources have become gaps for life as the national system has placed a

huge yoke on the necks of her victims. Villains have turned heroes and gallows have been made for those who ought to be adorned with medals and garlands.

In Nigeria, the challenges of environmental justice is enormous the reason(s) is traceable to the non-Justiciability of Environmental Rights as provided for under the 1999 constitution of the Federal Republic of Nigeria (CFRN, 1999:CAP 2). This in the opinions of Environmental activists has made the Environmental Impact Assessment Act (1992) to be equally treated perfunctorily. Whereas the Environmental Impact Assessment (EIA) ought to provide a medium by which the people, government and developers can fairly judge whether a project should proceed or not base on its impact on the Environment. In the same vein, a plethora of challenges confront the **Land Use Act (1978)**. Bola (2002) rightly observes:

As with previous Constitutions, the 1999 Constitution elevates the provisions of the LUA to the status of constitutional provisions thereby making their modification or amendment very difficult.

The import of this is that Nigeria has not being able to flow with Trends in environmental governance, as exemplified in international legal instruments such as Principle 1 of the *Stockholm Declaration on the Human Environment*, Principle 10 of the *Rio Declaration on Environment and Development* and more recently, the *United Nations Economic Commission for Europe (UN/ECE) Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (the Aarhus Convention)*), emphasize procedural rights such as access to information, public participation in decision-making and access to justice. Article 1 of 1998 Aarhus Convention specifically states that, “each Party shall guarantee the rights of access to information, public participation in decision-making, and access to justice in environmental matters in accordance with the provisions of this Convention.” This notwithstanding, there is yet no African-wide (or a sub-regional) instrument, which similarly defines the nature and components of participatory environmental governance. However, legal instruments such as the Aarhus Convention (1998) highlight the extent and means by which guarantees on procedural rights can strengthen and support substantive rights. The adversarial nature of our legal system has equally been seen as a challenge. In Environmental cases, the burden of proof of injury is placed on the victim/complainant. Thus, the fact that cases are often determined on technicalities rather than form, poses a serious challenge to environmental justice in Nigeria. To this end, Nigeria must borrow a leave from far reaching decisions of the courts of other jurisdictions. For instance, the consequence of the U.S. Supreme court’s land mark decision in *Massachusetts V Environmental Protection Agency (2007)*, is held to have reduced standing requirements thereby enabling litigators to pursue environmental claims and compel U.S Federal Agencies to enforce existing statutes. Accordingly, the

court decision in *Center for Biological Diversity V. Environmental Protection Agency* (W.D.Wash. Filed May 14; 2009) is said to be predicated on this decision. The fact of the case borders on the alleged failure by (EPA) to list and regulate damage caused to Washington's coastal waters by ocean acidification, as a result of the EPA'S action, CBD also claimed that its members suffered procedural informational injury. In a similar development, in the Indian case of *Bandhua Mukti Morcha vs. Union & ors* (1991: INSC190), where justice Bhagwati (Indian Supreme Court) cautioned against an overzealous commitment to the adversarial process especially where parties are not evenly balanced in social or economic strength.

However, pursuant to the holding in *Massachusetts*, where the court found that the EPA violated its statutory obligation when it declined to regulate CO₂ and greenhouse gases (GHG), the CBD sought declaratory relief against the EPA for its procedurally improper approval of Washington's list of impaired waters.

Recommendation

There is a need for the Nigerian Government to become more proactive in the implementation of Environmental treaties and protocols she has entered. In other words, Nigerian Government must implement fully such environmental resolutions from the various conventions to checkmate the environmental hazards in the country.

A gradual diversification of the nation's economy from dependence on fossil fuel towards renewable energy (green economy) must be strongly encouraged by the Government.

In the aspect of environmental justice, corruption must be addressed in the implementation of environmental policies. Thus, compromise in EIA Processes and embezzlement of ecological funds must be condemned in its strongest term.

The court must equally become more proactive and go beyond technicalities in enforcing environmental rights. As situations where environmental abuse cases are taken to foreign courts does not speak well of our Judicial system.

There is also the need to harmonize all necessary environmental laws and the relevant sections that demand same to reflect contemporary needs since the existing legal framework whether national or State, are not achieving dramatic changes that give effect to the principle of sustainable development.

Environmental legislation should not be on the exclusive legislative list of the federal government alone but should make provisions to authorize the states and local governments to do the same at their own level. This reflects the principle of subsidiary and a trend towards decentralization, where decisions are best made at the lowest level of governance able to adequately deal with the environmental challenges.

Conclusion

The transition towards sustainability in response to the alarming deterioration of the earth's environment especially in Nigeria requires both immediate and gradual changes in production and consumption patterns. The required regulatory changes will affect not only new activities, but also those economic activities already under way, as clarified by the International Court of Justice in the case of *Gabcikovo/Nagymaros* (1997). It is thus foreseen that the necessary changes in the legal structures governing the local and global economies will impose costs on existing activities as well as foster new opportunities in the marketplace. At the same time, investments in activities that reduce humanity's "ecological footprint" are indispensable to fuel the transition towards sustainability. It is also foreseen that sustainable development requires adaptive management and evolving norms in order to incorporate new scientific insights and lessons learnt regarding the operation and effectiveness of legal tools. In a long-term perspective, Nigeria is yet to realize that while the challenges involved in sustainable development are formidable, they are also indispensable to maintain the viability of the planet and to safeguard the rights of unborn generations. With the emergence of sustainable development as the overarching policy framework, Nigeria faces the challenge of finding channels for normative and institutional dialogue between economic, social, and environmental regimes. An important tool for dialogue is sustainable development's call for science-based decision-making, even with regard to the precautionary principle. Indeed the 2002 Plan of Implementation concluded at the World Summit for Sustainable Development expressly recognizes the need to remote and improve science-based decision-making and reaffirm the precautionary approach as set out in principle 15 of the Rio Declaration on Environment and Development. Although the principles of sustainable development have filtered down from international treaties and principles, the implementation of the principles of sustainable development is quiet poor in Nigerian. Hence, the Government and citizenry should engage in a collaborative effort to achieve sustainable development for Nigeria and for Nigerians.

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