

African Research Review

An International Multi-Disciplinary Journal, Ethiopia

Vol. 3 (2), January, 2009

ISSN 1994-9057 (Print)

ISSN 2070-0083 (Online)

Legal Mechanism for Achieving Environmental Sustainability in Nigeria (*Pp. 369-380*)

Ezeabasili, Nkechi - Department of Geography and Meteorology, Faculty of Environmental Science, Nnamdi Azikiwe University, Awka, Anambra State ezebasilinkechi@yahoo.com

Abstract

There is no gain saying that our environment has been devastated due to man's activities. To continue in this stead would be catastrophic hence the law as a means of social change and social engineering would be used to checkmate the activities of man on the environment. Laws as a body of rules to guide the activities of man cannot be effective unless prescribed by an authority and sanctions for its breach stipulated. The Federal Environmental Protection Agency (FEPA) Act enacted to protect the Nigerian environment are general laws and no specific sanctions provided for the breach of each provision; furthermore the international laws and treaties adopted and ratified by Nigeria have vague enforcement procedure. In this wise, this article advocates that not only should laws be enacted to protect the three (3) environmental media but appropriate sanctions recommended for specific breach and an effective implementation process/strategies established to ensure the laws enacted are adhered to, if our environment will be optimally utilized and same preserved for posterity.

Introduction

Upon creation of the world, man was admonished by God to conquer it and since then, man has left no stone unturned in this quest to conquer the world. Man is totally dependent on the environment for his daily needs such as food, shelter and clothing and it is in the bid to acquire these basic needs that he has dealt adversely with the environment. Section 38 of the Federal

Environmental Protection Agency (FEPA) Act defined the environment as including water, air, land and all plants and animals living therein and their interrelationship which exist among these or any of them.

Man's intrusion into this complex web called environment has had devastating effects. The environment is the source of the energy and materials which mankind transforms into goods and services to meet his needs. It also acts as a vast sink for the wastes and polluting substances he generates. This increasing hostile and unhealthy environment is causing the dislocation, depletion and extinction of species of plants and animals.

To maintain the environment at a life sustaining level with attendant economic development and also have a reserve for the future, the concept of sustainable development was initiated by the Brundtland Commission. Sustainable Development is defined as development that meets the needs of the present without compromising the ability of the future generation to meet their own needs. This principle aims at reconciling the apparent conflicts between environmental protection; economic development and the quality of life. It's relevance at the global, national and local levels are its value for setting the context for policy development and environmental laws.

Today, human activities and the demand for economic growth and development have negatively affected the environment thereby causing land degradation, water pollution, air pollution, slums in the cities as a result of urbanization, utter neglect and disregard for the protection of the immediate environment, much more the future environment.

In addressing the problems of economic growth, the developed countries have adopted legal strategies that attempt to meet the competing demands of urbanization, pollution and the protection of the environment. The question confronting sustainable development is whether non-renewable natural assets should be put in jeopardy by economic growth? It has been suggested that where natural assets are in jeopardy, economic growth should be prohibited to protect the environment. This suggestion could hold sway in developed countries but not in developing countries like Nigeria where economic development is *sine qua non* to human existence. Rather than prohibit economic development, laws protecting the environment should be enacted and existing ones reinvigorated, and compliance ensured to achieve environmental sustainability.

What is Sustainable Development?

Sustainable development is a pattern of resource use that aims to meet human needs while preserving the natural environment so that these needs can be met not only in the present, but in the indefinite future. The term was used by the Brundtland Commission which coined what has become the most often quoted definition of sustainable development as development that “meets the needs of the present without compromising the ability of the future generation to meet their own needs”.

The field of sustainable development can be conceptually broken into three constituent parts: Environmental sustainability, economic sustainability and social-political sustainability.

For our scope, we shall limit ourselves to environmental sustainability and seek ways in which the laws enacted would help us to achieve that desired goal. So many writers have given vent to what sustainable development is Ajayi, W. (1995) sees it as the facilitator for balancing the conservation of nature’s resource with the needs for development. In other words, it means improving the quality of human life while living within the carrying capacity of supporting ecosystems. Furthermore, it has been recognized by Hawke, N. (1993 in Atsegbua *et al*) that there are many ways of combining economic activity with environmental protection, and these include: “... Energy efficient measures, improved technology and techniques of management, better product design and marketing, waste minimization, environmentally sensitive farming practices, sound decision in land use planning, improved transport efficiency, informed choices by consumers and changes in individual life style”. On the whole, he identified empirical activities of man, a proper management of which is capable of putting sustainable development into practice. Ajayi opines that the principle of sustainable development requires that the environment be managed so as not irreversibly damage the procession of nature or over tax them. This opinion can hardly be faulted in the light of the global manifestation in recent years, of the consequences of man’s activities that are deleterious to the environment.

Environmental Sustainability

This is defined as the ability of the environment to continue to function properly indefinitely. This involves meeting the present needs of humans without endangering the welfare of future generations. The goal of environmental sustainability is to halt environmental degradation. An “unsustainable situation” occurs when natural capital (the sum total of

nature's resource) is used up faster than it can be replenished. Sustainability requires that human activity only uses nature's resources at a rate at which they can be replenished naturally. Inherently, the concept of sustainable development is undermined with the concept of carrying capacity. Theoretically, the long-term result of environmental degradation is the inability to sustain human life. Such degradation on a global scale could imply extinction for humanity.

The question would always be whether environmental sustainability as it is being preached and in its very context of natural renewal of the environment, is practicable in developing economies or should a mid way course be adopted to achieve same purpose without undermining our economic development? Sustainable development has been criticized on the basis that it sets limits on the developing world. While current first world countries polluted significantly during their development, the same countries encourage third world countries to reduce pollution, which sometimes impedes growth. Some consider that the implementation of sustainable development would mean a reversion to pre-modern life styles. Much as the developing economies have their fears, this fear and skepticism should not undermine the gains inherent in sustainable development if our environment is to be utilized now and same preserved for the future generation especially when we take into consideration the alarming rate at which the environment is polluted unchecked and it is at this point that law acts as a catalyst trying to balance the equation inherent in environmental sustainability and economic development.

Why Sustainable Development

The past 20 years have seen a growing realization that the current model of development is unsustainable. In other words, we are living beyond our means. From the loss of biodiversity with the felling of rainforests, over fishing, water pollution and land degradation caused by oil spillages to the negative effect of our consumption patterns are having on the environment and the climate. Our way of life is placing an increasing burden on the planet. The increasing stress we put on resources and environmental systems such as water, land and air cannot go on for ever. We must strive especially with the increasing rate of population growth and the fact that the environment as it is now is not meeting the needs of the present let alone considering the needs of the future generation entrench sustainability in all facets of our lives and the law is the key means through which this can be

achieved if we all agree that economic development must go on alongside environmental protection.

Environmental degradation is the deterioration of the environment through depletion of resources such as air, water and soil (land), the destruction of ecosystems and the extinction of wildlife. Environmental degradation is as a result of the dynamic interplay of socio-economic, institutional and technological activities. Environmental changes maybe driven by many factors including - economic growth, population growth, urbanization, intensification of agriculture, rising energy use, and transportation. Poverty still remains a problem at the root of several environmental problems. In Nigeria, the discovery of oil in the Niger Delta and other mineral resources such as tin in the Jos – Plateau and their exploitation paved way for environmental hazards in Nigeria. Owing to over exploitation of these natural resources, Nigeria is confronted by the following major problems: deforestation, desertification, soil and coastal erosion, oil pollution, gas flaring, water pollution, water hyacinth, loss of biodiversity, urban decay, solid waste management and industrial pollution.

Mechanism for Control of Environmental Degradation

Dramatic changes on global climate have helped to wake up the consciousness of states on the significance of environment issues in the last forty (40) years, Alex (2006). Before then countries focused their energies on relentless industrial development with little or no attention to its impact on the environment. Scientific evidence has shown that unbridled development leads to loss of environmental capital, sometimes an irreversible phenomenon.

As a result, many treaties and a flurry of municipal legislations have come into both the domestic and international arena to check the imbalance; also, a wide variety of non-legislative instrument dealing with the threat of environmental degradation resulting from economic growth have also come into play.

Laws regulating the environment are broadly classified into international law, national laws and municipal laws. These laws should be adequately enacted and enforced to regulate the environmental challenges.

International law since the beginning of 19th century has played significant role in the protection of the environment. Among the fields of law, the evolution of international environmental law stands out as fast-paced with chequered and tumultuous history, experiencing dramatic changes in emphasis and contents. These international legal regimes are contained in various bilateral and multilateral treaties, declarations and guidelines adopted and practiced by the contracting states. International environmental law developed rules and principles governing multilateral treaties expressing common global concern, as well as those governing transboundary relationships involving two or more neighbouring states. Nigeria has not only acceded to some of these bilateral and multilateral treaties regulating the environment but has gone a step further to domesticate some of the treaties.

Some of the international laws/treaties are:

- (i) Basel Convention on the Control of Trans-boundary Movement of Hazardous Wastes and their Disposal, 1989.
- (ii) Convention for Co-operation in the Protection and Development of the Marine and Coastal Environments of West and Central Africa.
- (iii) Convention for Long Range Trans-boundary Air Pollution.
- (iv) Protocol to the Framework Convention on Climate Change, Kyoto, Japan.
- (v) Rio Declaration, 1992.
- (vi) Stockholm Declaration, 1972.
- (vii) The Convention of the High Sea, 1958.
- (viii) Montreal Protocol on Substances that Deplete the Ozone Layer, 1987.
- (ix) International Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matters (as amended).
- (x) International Convention on Civil and Political Rights, 1966.

Some of these treaties are not domesticated so that compliance with these laws are merely persuasive since international law recognizes the sovereignty rights of each State. States that are not signatories or parties to the convention have no business complying with the law. Where however, a state party breaches the law, economic sanctions could be adopted by the other states' signatory to that treaty to compel obedience to the treaty, therefore international environmental law could largely be said to be inchoate and for this, it is not a very effective weapon for achieving sustainable

development hence the continuous call for domestication of some of these treaties.

Nigeria is not dependent on international laws only to regulate its environment. She has promulgated some national environmental laws to check the abuse of the environment. It is an accepted and obvious fact that laws regulating the environmental media were not enacted till about 1987 when the Koko dumping triggered the first legislation – The Harmful Waste (Special Provisions, etc.) Act, but one could say right now that several national laws have been enacted to regulate sectoral aspects of the environment, what however could be said to be lacking is the duely needed enforcement strategies to accomplish the task of sustainable development. Some of the national laws enacted are:

- (i) Federal Environmental Protection Agency Act.
- (ii) Environmental Impact Assessment Act.
- (iii) Harmful Waste (Special Criminal Provision) Act.
- (iv) Oil in Navigable Waters Act
- (v) Oil Pipelines Act.
- (vi) Petroleum (Drilling and Production) Regulation, 1969.
- (vii) African Charter on Human and Peoples' Right.
- (viii) Endangered Species (Control of International Trade Traffic) Act.
- (ix) Associated Gas Re-Injection Act.
- (x) Petroleum Act.

Just as it is at the national level, the states have also tried to out do themselves in the promulgation of environmental laws within the limits of the powers conferred on them by the Constitution. Some of these laws are:

- Kano State Environmental Protection and Planning Agency Edict of 1990.
- Anambra State Environmental Sanitation Authority Edict No. 5.
- Edo State Environmental Sanitation Edict, 1994.
- Lagos State Environmental Sanitation Edict, 1998.
- Bush Burning (Control) Edict, 1985 (Kaduna State).
- Environmental Sanitation Edict, 1984 (Kaduna State), etc.

Much as there seems to be laws generally enacted to protected the environment, it must be emphasized that some of the laws need to be reviewed and brought to the current standard of our industrial and

technological advancement, what is more, most of these laws have become obsolete and need be repealed and a new one enacted in their stead; or new sectoral laws enacted to take care of specific areas where no laws existed before now.

The National Assembly in order to assist in the protection of our environment must take interest and promulgate laws on importation of second hand goods into this country no matter the nature of goods as Nigeria nay Africa has become a dumping ground. Again of utmost importance to the National Assembly should be laws made banning the use of polythene and waterproof, where ban is impossible then, its enforcement made very strict because these materials being non biodegradable, the continuous use of them should be a source of serious worry to the nation, especially, when there is no strict regulation on their mode of disposal.

Recommendation

Uchegbu (1998) attributes the ecological and environmental hazards in Nigeria to five principal factors thus;

- Selfishness (Politicians are afraid to implement the environment policies)
- Greed (Lobbying by the industrialists).
- Ignorance (we still know relatively little about the abundance of life in tropical rain forest.
- Short-sighted viewpoint (few are aware of the proportions of the potential tragedy).
- Self-centred attitudes (the problem is global and solution cannot be other than global).

Sustainable development must be supported by a strong vision and clear goals established through effective public participation. Leadership in all sectors is critical. Sustainability is not something that a government department, local authority or other public agency can have sole responsibility for. Organisations, business communities and individuals must take responsibility for the resources they use, the energy they consume, the waste they produce and their impacts on biodiversity. Having lost our cultural values, ethics and etiquette, the law will readily step into their shoe and make everyone accountable to the use and misuse of the environment.

Good information is also needed to monitor and review the effectiveness of the law and its enforcement in achieving sustainable development. Environmental tribunals or courts should be established to deal on environmental matters. The Alternator Dispute Resolution (ADR) is mostly advocated here to ensure speedy adjudication and dispensation of justice.

Private litigation is encouraged to give room for most of the laws enacted to be show cased and tested so that those that are obsolete are either reviewed or repealed. Government departments and agencies should from time to time review and report on the effectiveness of policies and plans.

Conclusion

Policy responses have been made in relation to achieving sustainable development in the form of establishment of Federal Ministry of Environment and State Ministries of Environment charged solely with the responsibility of care of the environment and environmental related issues. Campaign for monthly sanitation have kick started in so many States of the Federation and sanitation courts established alongside to try offenders immediately. This is a right step in the right direction but grossly inadequate. The Office of Sanitary Officers should be created whose duty will be to visit streets, towns, and cities to ensure that people comply with sanitation laws. Effective monitoring of the industries that pollute the environment should be carried out and these industries should be given a rebate to purchase pollution control equipment: laws in this area should be strengthened and compliance ensured.

The natural environment should also be protected through pro-active farming systems, avoidance of bush burning that could lead to wild fire and conservation of our forest reserves. The environmental impact assessment is a veritable tool that would guarantee sustainable development if effectively complied with. Nigeria still needs to develop the technical, administrative and legislative framework for effective integration of environmental concerns.

References

- Ajayi, W. (1995). "Achieving Environmental Protection through the Vehicle of Human Rights: Some Conceptual Legal and Third World Problems". University of Benin Law Journal, Vol. 2, No. 1, p. 41.
- Alex (2006). What is the place of Practice of Environmental Law in African's Development?
http://www.Lg.org/articles/article_1597.html. 1995 - 2000.
- Amokoye, G. Oludoyo (2004). Environmental Law and practice in Nigeria. University of Lagos Press, Akoka, Lagos State.
- Atsegbua, L.; Akpotaire, V.; Dimowo, F. (2004). Environmental Law in Nigeria: Theory ad Practice. Ababa Press Ltd., Lagos.
- Creating Our Future Sustainable Development for New Zealand.
http://www.pce.govt.nz/reports/allreports/1-877274_-03-8.shtml.
- Egunjobi Layi (2005). Issues in Environmental Management for Sustainable Development in Nigeria.
http://www.springerlink.com/content/m485lh_20u6n1_64261/
- Environmental Degradation (2008). <http://en.wikipedia.org/wiki>.
- Sustainable Development (2008).
<http://en.wikipedia.org/wiki/sustainable-development>
- Sustainable Development.Gov.Uk (2008).
<http://www.sustainable-development.gov.uk/what/index.htm>
- The Underlying Causes of Environmental Degradation.
http://indiabudget.nic.in/es_98-99/Chap_1104.pdf.
- Thornton, J and Beckwith, S. (1997). Environmental Law; Sweet & Maxwell, London.
- United Nations (1987). "Report of the World Commission on Environment and Development", General Assembly Resolution, 42/187, December 11.

Table 4: Genotype and malaria prophylaxis in relation to maternal, fetal, placental and cord parasitaemia

Genotype	Maternal blood		Fetal blood		Placental blood		Cord blood	
	Positive (%)	Negative (%)	Positive (%)	Negative (%)	Positive (%)	Negative (%)	Positive (%)	Negative (%)
AA	32(41.6%)	45(58.4 %)	25(32.5%)	52(.67.5 %)	27(35.1%)	50(64.9%)	27(35.1%)	50(64.9%)
AS	5(9.6%)	47(90.4 %)	4(7.7)	48(92.3 %)	47(9.6%)	47(90.4%)	3(5.8%)	49(94.2%)
AC	-	1(100%)	-	1(100%)	1(100%)	-	-	1(100%)
P-value	P<0.05		P<0.05		P<0.05		P<0.05	
Malaria prophylaxis								
Yes	14(38.9%)	22(61.1%)	13(36.1%)	23(63.9 %)	11(30.6%)	25(61.4%)	12(32.4%)	25(67.6%)
No	22(23.4%)	72(76.6%)	19(20.2%)	75(79.8 %)	19(20.2%)	75(79.8%)	18(19.4%)	75(80.6%)
P-value	P>0.05		P>0.05		P<0.05		P>0.05	

P>0.05 showed no strong correlation

P<0.05 showed strong correlation

Table 5: Maternal age and parity in relation to maternal, fetal, placental and cord parasitaemia.

Age (years)	Maternal blood		Fetal blood		Placental blood		Cord blood	
	Positive (%)	Negative (%)	Positive (%)	Negative (%)	Positive (%)	Negative(%)	Positive (%)	Negative (%)
14-20	5(38.5%)	8(61.5%)	4(30.8%)	9(69.2%)	4(30.8%)	9(69.2%)	4(30.8%)	9(69.2%)
21-30	28(31.1%)	62(68.9%)	22(24.4%)	68(75.6%)	25(27.8%)	65(72.2%)	23(25.6%)	67(74.4%)
31-40	4(14.8%)	23(85.2%)	3(11.1%)	24(88.9%)	3(11.1%)	24(88.9%)	3(11.1%)	24(88.9%)
P-value	P>0.05		P>0.05		P>0.05		P>0.05	
Parity								
Primigravid ae	15(31.3%)	33(68.7%)	11(22.9%)	37(77.1%)	11(22.9%)	37(77.1%)	12(25.0%)	36(75.0%)
Multigravid ae	22(26.8%)	60(73.2%)	18(22.0%)	64(78.0%)	22(26.8%)	60(73.2%)	18(22.0%)	64(78.0%)
P-value	P>0.05		P>0.05		P>0.05		P>0.05	

P>0.05 showed no strong correlation