

**GOOD GOVERNANCE AND IMPERATIVE LEGAL REFORM:
A CASE FOR SUSTAINABLE DEVELOPMENT IN NIGERIA**

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ABSTRACT

Democracy is government of the people by the people and for the people. That connotes and implies that in any democratic setting the government must be people-oriented since such government exists in order to cater adequately for the yearnings and aspirations of its clientele through political, social, educational, health care deliveries, economic and infrastructural facilities.

Therefore, democracy can never exist without an effective leader and a proper party organization backed up with the provision of law that is suitable for the condition of social life. But in Nigeria, a different scenario appears to be painted since corruption; bad leadership, terrorism, selfishness; favouritism and abuse of powers have become the order of the day. Realizing therefore that the role of the law is to ensure peace and development in the society on the one hand, and that law is to ensure peace and development in the society on the one hand, and that law is an instrument of social change and social control on the other hand, this paper therefore recommends the promulgation of imperative laws to resolve the issue of bad governance in Nigeria.

Keywords: Democracy, Government, Legal Reform, Sustainable Development, Nigeria

INTRODUCTION

Sustainable Development

The concept of “*Sustainable Development*” is fluid, not static but dynamic and it is capable of many interpretations depending upon the perception, training and idiosyncrasy of a particular writer and while some talk of the environmental sustainability, others talk of either the economic sustainability or socio-political sustainability and many more.

However, Kamaldeen (2010) reviewed many of these definitions and posited that the concept of sustainable development could be viewed 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 the 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.

This view has been summarized by the International Institute for Sustainable Development which posited that “the improvement of economic efficiency, the protection and restoration of the environment and the enhancement of the social well-being of the people from the basic tenets of sustainable development”.

Notwithstanding, all those postulates, other writers and institutions have extended the domain of sustainability to include Cultural Sustainability, Institutional Sustainability and good government.

However, this paper is not going into the polemics of definition but will concern itself with a detailed consideration of those factors which have hindered sustainable development over the years in Nigeria.

Nigeria became an independent state in 1960 and since then it has been contending herself with horrendous sort of governments precipitated by undemocratic politics: unemployment, terrorism, violent crime, dishonesty, bad government and religious intolerance while ethno-community hatred have engulfed the entire country.

It is equally alarming to say that despite the abundant human and material resources prevalent in the country, many of its people (equally of an alarming proportion) have been reduced to extreme economic hardship and social exclusion.

There is abject poverty here, there and yonder coupled with a great dearth of infrastructural facilities. All these mishaps have precluded the common man from deriving any dividend of democracy at any level. Some leaders at the helm of affair are not people oriented but selfish lot who concerned themselves with how to enrich themselves, their cabals, associates and friends at the expense of the down trodden people at the grass root.

Series of bombing, stealing of trillions amidst other despicable happenings and many others like rigging of elections, transectional leadership couple with social injustice have made lives very unbearable for the people that one predicts a little hope for the development of the country. As a matter of fact, while many countries are thinking seriously on how to develop themselves, Nigeria is sitting on the fence and taking the back seat for development purposes. There is poor governance quality, endemic corrupt tendencies and annihilation of lives with undemocratic application of law to make the country develop.

Unless drastic and imminent measures are therefore taken now at the knick of time, the country may not grow beyond the level of extinction.

Corruption

The issue of corruption has the most serious implication on good governance and sustainable development in Nigeria.

Corruption is a dreadful phenomenon which destroys the fabrics of all governmental structures in a nation. It is a cancer-worm, an anathema, and a gall and worm wood entity which should be abhorred by any nation that wants progress and development. But in Nigeria, the insatiable appetite for corruption has become an endemic disease which has brought concomitant sufferings, untold economic dilapidation, unrest, poverty and lack of infrastructural facilities and underdevelopment to the people so much that the dividends of democracy are not earned.

Thus corruption has weakened all democratic processes in the Local, State and Federal Levels of government in Nigeria. It has dampened morality, weakened meritocracy, and produced an avalanche of misrule, selfishness, ineffectiveness, colossal misappropriations of funds and unwillingness of those who were elected into governmental powers to quit their offices as at when due. It must be noted that since democracy and corruption are strange bed-fellows hence Nigerians are living in a word of grinding poverty where infrastructural facilities are nil, but accumulation of wealth by those people at the helm of affairs abound, bribery for budget approval and acts of embezzlement are predominant so much that one may be worried about the future of the country unless something positively backed up with functional and punitive laws are put in place.

According to Ahmed El-Rufai (2011), “the endemic nature of corruption in Nigeria has led to the loss of US 380 billion between independence and 1999. A global financial integrity initiative report dated January 2011 estimated the U.S \$130 billion worth of illicit financial flows occurred between 2000 and 2008. Adding all these numbers to the loss of nearly 87 billion to the fuel subsidy racket alone brings our national loss due to corruption to something in the region of US \$600 billion from independence to end of 2011”. However, Oyewo (2011) remarked that corruption is more under the military than the civilian regimes in Nigeria as follows:

During Buhari’s regime which took place between 1983 and 1985, corruption was intense so much that his “diversification of the economic policy became a mere dream, while the “essential raw materials within a targeted

period” which he promised were yet to descend from heaven. “Also the labour intensive project and job opportunities he promised were a mere broadcast, while his policy of rephrasing development projects involving large foreign exchange commitment was a mere fallacy, and the upholding of the principle of public accountability was a facial exhibition. The regime was so corrupt without a definite policy it was dilly-dallying, tottering and perambulating until he was swept off the podium of power. Gowon’s government was also too corrupt. Cases of corruption perpetrated by the governors and cabinet members were too alarming, yet he wanted to stay put in power. In Abacha’s regime which took place between 1993 and 1998, corruption pervaded the entire Nigeria scene, the economy became totally crumbled, unhappiness enveloped the entire nation, while looting and arson became the order of the day. Abacha amassed wealth for himself, family and associates with downright abuse of powers and corruption while he invented machineries for the killing of people who were opposed to his further stay in office. The story of corruption is long and depressing so much that Nigeria has been ranked among the three most corrupt nations in the world with adverse consequences on both economic and political development of the country. Corruption has eroded governmental legitimacy of Nigeria and it is a terrible blow on development of any kind. Unless there is an integrated National assault on this hydra headed monster called corruption, Nigeria may sooner or later with accelerated speed reach its waterloo of extinction. Therefore, this paper is recommending imperative laws to curb corruption in Nigeria.

Punishment and Legal Reform

It does not appear as if Nigerian governments over the years have taken positive steps to address this heinous problem of corruption effectively, and although Obasanjo government established the Economic and Financial Crime Commission, yet there is no appreciable changes because of the selective operational connotation embedded in the system, hence, the need for reformative legislations are pretty large.

Overview of the Existing Criminal Provisions

Sections 98, 99, 104 and 121 of the Criminal Code Act Cap 38 of Nigeria provide for the offences and punishment which should be given to anybody found guilty of an act of corruption under those provisions. Section 98 deals with Official Corruption, Public Official inviting bribes and so on in his official capacity and if found guilty of this felonious act he will be liable to imprisonment for seven years.

Also, should be mentioned that persons giving bribes or inviting bribes on account of actions of public officials are equally guilty and if found guilty of the felony of official corruption are liable to imprisonment equally for seven years. But it must be noted that no proceeding of an offence under the above sections of the law shall be instituted against a judicial officer except on a complaint or information signed by or on behalf of the Attorney General of the Federation or of the State in which the offence is alleged to have been committed.

By Section 99 of the code, any person who being an employee of the public service who takes or accepts a reward for performance of his official duties is liable to imprisonment, for three years, while Section 121 frowns at the corruption of witness and imposes a maximum term of 7 years on the accused or culprit. Similarly, Section 18 of the

Anti-Corruption Act 2000 makes a public ex-officer who receives bribe liable for a five years imprisonment while it equally slams a 5 years imprisonment on any public official who uses his position in the public office for gratification purposes. A bribery in relation to a public auction attracts 3 years imprisonment while any dealing with the property acquired through gratification entails five years imprisonment as penalty.

Many other provisions exist under the Economic and Financial Crimes Commission (Establishment) Act of 2004 in order to deal ruthlessly with Corruption and eradicate same in Nigeria but one may say that the penalty or imprisonment usually meted out under those provisions appear tokenistic in practice.

For instance, offences relating to financial malpractices in the bank attract 5 years imprisonment or a fine of five hundred thousand naira (₦500,000.00) and or to both such imprisonment and fine; while offences relating to terrorism attract a life imprisonment. Offences relating to the retention of stolen goods will attract on conviction on imprisonment for a term not less than three years or a fine equivalent to 100% of the value of the proceeds found with the offender.

Not to indulge in the polemic of enumeration and categorization of offences; it is suggested that those punishments are really in-adequate to curb corruption in Nigeria; while the prosecution of offenders in this perspective is selective and either based on resulted political affiliation or acts of favouritism.

One would suggest a death penalty for corrupt people and unless we do this, solution to corruption will be like a pie in the sky. Those corrupt people have killed the Nation and since death is a penalty for an international killer, let the same measure apply to corrupt people in Nigeria. But if the international community would oppose this, let us promulgate a law prohibiting any act of corruption by a life imprisonment penalty for the people who may be found guilty. We need to be stern, we need to be patriotic and we need to develop our fatherland, hence, Nigeria must say “No” to corruption for sustainable developments.

But I think we should copy the prevailing system of China as hinted by Sahid Umar (2012) who said as follows:

In China, anyone who steals or misappropriates Five thousand dollars of public fund (which is less than one million naira) is publicly executed. Here, billions of naira are openly looted and the looters are celebrated as heroes. It is time to denounce this obscenity and stop the double standards where petty thieves are severely punished by our legal system while looters of billions of naira are treated with kid's gloves and left off the hook. It is immoral, unethical and unpardonable”. China is a country like Nigeria and if we copy this system, one is confident that the level of corruption with the appropriation of funds will go to a vanishing end.

However, patriotic Nigerians have advocated the creation of anti-corruption with special rules of procedure to be made by the Chief Justice of Nigeria in order to limit the time for the trials of corrupt people.

The rules of procedures for those courts should ensure that cases filed in those courts do not last beyond 1 year from arraignment to judgement. Appeals should go from these courts to the court of appeal and the Supreme Court; while each of these appellate courts should deliver judgement within 6 months from the period of filling notices of appeal. They will do away with the long delay usually associated with the hearing and determination of corrupt offenders.

Election, Poverty and Terrorism

The above is discussed together because of their links. Whenever an election is to take place, faceless politicians would like to use their money to buy guns and dangerous weapons for the Youths in order to crush or attack any of their opponents. The youths based on this development of money and other resources would do all that lies in their powers to truncate such elections with violence; but as soon as the election is rigged and the faceless politician are elected, the youths will be dropped from earning or receiving any further money from their sponsors. They (the youths) subsequently become unemployed and poverty sets in the circumstances the resultant terrible blow on development of any kind. When poverty sets in and the purse becomes empty without any hope of getting any further support from the faceless elected politicians, the youths then go all out to commit acts of terrorism.

El-Rufai (2012) captures the position very well when he said as follows with all relevant particulars:

Nigeria has been contending itself with undemocratic politics which were based on the deployment of money, violent thugs and coercive powers of the state machineries. In many states, politicians and parties have armlets of “youth that are fed with cheap drugs and then armed with matches, swords and guns to attend political rallies and attack any perceived opponents of the party and candidates. For instance in Bauchi, Isa Yugudu has his “Sara-Suka” (attack and stab) boys/youth Ali Mudu Sheriff in Borno has his ECOMUG and Gombe’s Danjuma Goje had his “Yan Kalarett.

What then happens after the elections are won and the supply of cash and drugs end? Society was left with young, bitter and hopeless people that happen to possess some dangerous weapon. The result is kidnapping for cash that metamorphosed into militants in the Niger Delta, kidnappers and armed robbers in the South East and Area boys and NURTW thugs in the South-West and Boko-Haram in the North East. The effect of all these led to a serious lack of environmental sustainability.

Elections

Democracy and election are two sides of the same coin. They are intertwined and interwoven so much that the absence of one leads of necessity to the non-existence of the other. Thus democracy and election are necessary co-adjutors that one cannot separate them. They are encapsulated so that both could co-exist in order to satisfy the yearning and aspiration of the people.

However, it should be pointed out that since the 1950’s no credible election has taken place in Nigeria. Thus, political violence has been the major threat to democratic consolidation. Elections from 1950’s have been associated

with riots, thugries, arson, kidnapping, assassination, bloodletting and wanton destruction of properties. All these constitute challenges of democratic consolation in Nigeria so much that no election so far has produced a procedurally legitimate regime or leader in the country. These have adversely affected development in the Nigeria. The control of sources of wealth and property are more often than not in the hands of tiny few who are ultimately at the helm of political affairs to benefit their cronies, members of their family and cabals at the expense of the down trodden masses and anticipated development.

Omolola (2000) captured the scene figuratively when she said as follows:

Money politics still dominate democratic transition process, and electioneering is influenced by bribery, thugry and political violence. The price paid is the total alienation of the masses from the political arena, thereby limiting their participation in the socio-political affairs of their society, and compounded by frequent intervention of the military in politics.

With this scenario one can imagine than describe the existence of bad government in the country. There is endemic poverty, unemployment, lack of infrastructural facilities and preponderant human insecurity. Unless laws are therefore made to stem theses mishaps, the country sooner or later may not grow or develop beyond the level of extinction.

Laws must be made to curb thugry in its entire ramification. Thus criminalizing thugry will be premature of conducting credible elections.

Our electoral laws must be reviewed drastically. For instance in proving agency relationship in election cases, a candidate must be made liable not only for the acts of the agent whom he himself appointed or authorized, but also for the acts of agent employed by his election agent or by any other agent having authority to employ others.

It must be noted that one of the most serious impediments to the system of democratic government in Nigeria is the unduly long time it takes to determine an election petition.

This mishap is the fault of the existing constitutional provision which failed to limit the time within which a tribunal or court must conclude the adjudication of election disputes. As a matter of fact both the constitution and the electoral laws are outdated and ill equipped in order to be able adequately to address electoral matters to the extent that the very foundation of democracy is seriously threatened why socio-economic development of the country looks like a pie in the sky.

Hence, one is suggesting a new electoral law which guarantees the speedy resolution of electoral conflicts. So far the Electoral Act provides for a time limit within which petition must be presented but there is no stipulated time limit within which its hearing must be concluded.

LEADERSHIP AND DEMOCRATIC GOVERNANCE

Any meaningful government must be people oriented for development since the improvement of the living condition of its citizenry forms the centre focus on the development concept. Therefore, any country which is not satisfying the expectation of its population is to that extent not developed since development is said to be relative to the aspirations of the people.

Thus, the eradication of poverty must come vividly to be tackled by any purposeful government right from the grass root stratum of administration and that is why both the military and civilian governments over the years have put premium on the effective system of the local government administration and management, and that is why Section 7(1) of the 1999 Constitution aspired to make local government – the third tier level of government in Nigeria.

The constitution made provisions for both the functional and financial integrities for such local governments in order to make them virile and viable, but alarmingly there is nothing to write home on the effectiveness of Local Government so far in Nigeria to make any meaningful development in the country a reality.

The reason is that owing to poor governance quality, endemic corrupt practices, undemocratic application of law and power, acute shortage of funds orchestrated and manipulated by the state governments who have not ceased from encroaching into the local government funds with other more reprehensible actions of the state governments, local governments have not been all effective to satisfy the yearning and aspirations of the people who are their clientele. Reports have been made here, there and yonder about some accredited spineless leaders who without vision and sense of decorum have looted local government's funds without caring less for the survival of democracy. This could not have been if local governments in Nigeria have not been tied so much to the apron strings of their respective state governments by some statutory provisions; whereas such state governments are not usually magnanimous with the local governments so much that they treat local governments with contempt and deny them most of their rightful dues for development.

Unless necessary and more punitive laws against these state governments are made, certainly local governments in Nigeria will just be unhealthy appendages of the state governments and conduit pipes for such governors to misappropriate funds at the expense of development meant for the grass root people.

GOVERNANCE AT BOTH STATE AND FEDERAL LEVELS

An examination of the governance at both the State and Federal levels shows that proper utilization of public resources in Nigeria for the public welfare and security has not fully taken place despite the fact that the essence of responsive governance is to provide for its citizenry and make life more meaningful to them which requires leadership that are selves disciplined, courageous, visionary and hardworking. So far, there is no effective relationship between the people and the Nigeria governments. In Nigeria, there is also no creation of nay enabling

environment for sustainable development. The issues like corrupt practices, lack of transparency and accountability have declined virtually all the resources that are meant for development; and directly or indirectly have constituted insecurity in Nigeria system due to human needs deprivation, total neglect, and massive unemployment.

Thus government other than raising the hope of the average citizens has dampened it. It must be noted also that the fundamental goal of any civilized society is to ensure positive law and order by maintaining and guaranteeing its citizens general security and ensure public tranquility which has not been effectively done in Nigeria. Hence, the lack of those amenities are the indices for bad governance and under development in Nigeria. The whole scenario needs positive re-orientation and urgent ameliorating conditions backed up with imperative legal reforms.

THE POLICE

According to the Dictionary meaning, the word “police” is an official organization whose job is to make sure that people obey the law, to catch criminals and to protect people and property.

Therefore, to be able to perform the work of a policeman effectively, there must be adequate training to detect crimes, adequate remuneration to be paid in form of salaries, up-to-date equipments to discharge their duties and adequate amenities to be given to the organisation. But in Nigeria it would appear that a lot has to be done in order to achieve a good police system. The police have been given bad names like “pay-as-you-go” (Guardian, 2007) where it was alleged that police is the most corrupt institution in Nigeria.

It was also alleged in many quarters that the police more often than not do facilitate crimes or the escape from justice by those who commit crimes thus leading to more criminal insecurity.

It is further more alleged that they apply the law selectively thus irrespective of who is guilty they often tilt the scale of justice to the higher bidder. People gave them all sorts of opprobrious names but do they merit such bad names.

The point is that an efficient police force depends on good governance which one should encourage in Nigeria.

The police are not paid adequately in Nigeria. They lack adequate protection to do their duties, as a matter of facts they are exposed to danger whenever they are to face armed robbers and the like because their weapons to say the list cannot match those of their opponents.

They suffer in silence and cannot complain or go on strikes to make their demands felt, and in the allocation of resources, rewards and benefits, they always come last to be considered, hence they fail on many occasions to arrest political god fathers. Therefore, it is the talking of this paper that unless effective, good governance is put in place backed up with humane and positive laws, the hope of an effective police system in Nigeria will be a mirage thus creating the problem of institutional sustainability and dearth of social and economic development for the country.

A REVIEW OF THE 1999 CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA

In order to reap the benefits of democratic consolidation in Nigeria, the 1999 constitution must be geared towards the attainment of that objective. Thus, the constitution must contain compelling provisions for socio-economic and cultural rights; that is rights to food, shelter, education, clothing, employment and so on in order to stimulate and trigger in sustainable development. Provisions for human rights must be mandatory with compelling mechanism.

All these rights and many more must be made justiceable unlike what prevails in Nigeria thus creating the problem of institutional sustainability and a dearth of social and economic development for the country.

Nigeria should look outwards and borrow a leaf from the Constitution of the Republic of South Africa (1996) where Chapter 2 of it deals with the Bill of Rights which is a corner stone of democracy.

The bill contains the rights of all people in that country and affirms the democratic values of human dignity, equality and freedom. The bill applies to all law, and binds the legislature, the executive, the judiciary and all organs of the state.

On Equality – the Bill provides that:

- (i) Everyone is equal before the law and has the right to equal protection and benefit of the law;
- (ii) Equality includes the full and equal enjoyment of all rights and freedom while;
- (iii) The State may not unfairly discriminate directly or indirectly against any one on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social factor, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.

However, it is worthy to note that Chapter 2 Section 23 to 26 and Section 29 all deal with (i) Labour Relations (ii) The Environment (iii) Compulsory acquisition of Right (iv) Housing Policy (v) Health Care, Food, Water and Social Security and (vi) Education to mention a few.

As a matter of fact this constitution is must be for the masses and really people oriented. For instance, everyone has a right – (a) to fair labour practices and every worker has a right to form and join a trade union and participate in the activities and programmes of the trade union on Environmental matter, Nigeria Constitution with lip service provides for rights (a) to an environment that is not harmful to health or well being, and (a) to get that environment protected for the benefit of present and future generations through legislature and other measures that (i) prevent pollution and ecological degradation (ii) promote conservation and (iii) secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.

On housing, the same Constitution provides that it is provided that everyone has the right to have access to adequate housing, while the state must take reasonable legislature and other measures within its available resources to achieve the progressive realization of this right.

Hence, no one may be evicted from their home, or have their home demolished, without an order of court made after considering all the relevant circumstance; and no legislation may arbitrarily evict anybody.

Not to indulge with catalogue of provisions, it should be noted that good governments always make the fundamental objectives and directives principles of state policy justiciable in order to cater for the development of their people who are their clientele but that does not exist in Nigeria; hence it is hereby suggested that imperative legal reforms and Constitutional review should take place in Nigeria in order to usher in lots of desirable development for the happiness and welfare of the entire citizenry.

CONCLUSION

There cannot be a good government without a tenacious adherence to the rule of law, since laws are made for the welfare of the citizens. Therefore government should be conducted within a framework of the law which restricts the use of arbitrary powers. Democracy frowns at the arbitrary arrest of the citizens, but entrenches the protection of civil liberties, freedom of thought and expression, freedom of religion, freedom of associations and the application of the principles embedded in the fundamental rights provision, hence governments must ensure that meaningful and humane laws are made in order to maintain order, peace and harmony within its catchment areas. Thus, the rich and the poor must receive equal justice. There cannot be one category of justice to the rich and another category to the poor. That is injustice. Also, everybody must be entitled to equal treatments in terms of amenities and infrastructural facilities. The law must be obeyed by all and sundry in order to prevent anarchy while those in government should be transparently honest, accountable and responsible enough to promote the welfare of the people since the rule of law is a vehicle for economic development of any nation.

This rule of law does not thrive where there is wide spread corruption, poverty and wide spread impunity. It is not effective where the legal system and its institutions are too weak or backward to provide a remedy or to protect rights and guarantee liberty. Lastly, the rule of law is a sham where victims lack the ability to seek for remedies by reason of poverty and lack of sustainable development.

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