

Law, Development Policies and Climate Change: Lessons from Nigeria's Developmental Process

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ABSTRACT

The quest for development is the major drive of every human society especially societies designated as developing or less developed with special reference to the Nigerian state given its abundant human and natural resources which have been termed its albatross. In a bid to achieve this laudable agenda, humanity have constantly interacted with and engaged the natural environment which have consequently produced its adverse effect as seen in the various manifestations from the environment. Consequently, this paper examines fundamental legal frameworks, developmental policies and climate change with lessons from Nigeria's developmental process and outcomes. The theory of environmentalism as developed by Schumacher (1973) which contains a detailed critique of the role of modern societies and their drive towards development with overbearing effect on sustaining the good of the environment through formulation of frameworks. The paper relies on secondary sources of data such as journals, government papers and online articles and the documents were subjected to content analysis. The paper discovered amongst other things that, though there exists fundamental laws starting from constitutional provisions, human engagements with government and its agencies at the driver's seat have contributed more to actions that have affected the environment. It recommends holistic domestication and application of extent international protocols that addresses the urgent need of environmental preservation with the actualization of comprehensive development programs for the masses

Keywords: Climate Change; Degradation; Development; environment; Policies.

Introduction

The quest of man to be productive and drive fundamental development activities in the society has necessitated the exploration of the natural environment. Man's development efforts in all spheres which include manufacturing, processing, industrialization, housing, construction, agriculture, rural and urban growth. These exploration activities have subjected the natural environment to changes that are being witnessed today and by implication undermining the course of human existence with outcomes delivering development in some quarters while in some producing underdevelopment outcome and effects. As a result of the diverse geographical, physiological formations and natural resources, Nigeria and other nations, has their share of ecological and environmental perturbations that have generated sustained and intense attention nationally and internationally. The environmental challenges confronting Nigeria today, ranges from drought, desertification, pest control, dumping of hazardous waste, marine pollution, international trade and illegal trafficking in endangered species and conversion, utilization and transfer of her rich genetic resources.

Development and underdevelopment designation of states in recent times have come to assume a contentious dimension amongst analyst and scholars. What development, underdevelopment and developing connote varies because of characteristics classification. From Rostow's work (1971), which sees development as a process of evolutionary succession in systematic stages; Ribeiro cited in Soares and Quintella (2008), describes it as a state, process, well-being, progress, economic and human growth or ecological balance; and United Nations Development Programme (1991) conceives the concept with an apt interpretation which include, expanding the range of choices for the population to become more democratic and participative. With these descriptions, the question of what constitute the direct opposite of development which is underdevelopment has been brought to light. Basically, development and underdevelopment has been loosely described as a phenomenon of two opposite side. Therefore, the opposite of development fits into the framework of underdevelopment.

According to Abdulgahfoor (2013), it is important to note that the generality of the environment is one of the important decisive factors exerting influence on development possibilities and outcomes. It is empirically known that diversified strategies of development must be applied in urbanized, industrial and rural areas.

In a related twist, climate change occasioned by human's activities geared towards development is one of the great challenges facing humankind in the new millennium. It is the response of the earth's climate system to altered concentration of "green-house gases" emitted to the atmosphere. It is a change attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is, in addition to natural climate variability, observed over comparable time period. Scientific evidence suggests that the green-house effect is

a natural phenomenon that keeps the earth warmer than it would otherwise be (Amokaye, 2004: pg.396).

By this natural method, the earth absorbs energy from the sun in the form of solar radiation. About one-third is reflected and the rest is absorbed by different components of the climate system, including the atmosphere, the oceans, the land surface and the biota. The income energy is balanced over the long term by outgoing radiation from the earth's atmosphere system, with outgoing radiation taking the form of long-wave, invisible infrared energy (Amokaye, 2004). The magnitude of this outgoing radiation is affected in part by the temperature of the earth's atmosphere system. Aside from the natural emissions of green-house gases, human activities are increasing the atmospheric concentration of green-house gases and aerosols. These changes in the green-house gases and aerosols could lead to regional and global warming, and increase in global average temperature climate and climate related parameters such as temperature, precipitation, soil moisture and sea level.

The preservation of the environment is however consequent upon existing national and international law. In Nigeria, the 1999 constitution (As Amended) in its Chapter II, "Fundamental Objectives and Directive Principles of State Policy" in Section 20 provides for the actions aimed at preserving the environment. Also, there are several International Environmental Laws meant to protect the environment globally.

Nigeria is also signatory to some of the many environmental international environmental agreements aimed at protecting the environment at the international and national level and they include: Stockholm Convention on Persistent Organic Pollutants(POPs);Rotterdam Convention on the Prior Informed Consent (PIC) Procedure for certain Hazardous Chemicals and Pesticides in International Trade, 1998;Protocol Concerning Cooperation in Combating Pollution in case of Emergency;Bamako Convention on the Ban of import into Africa and Trans-boundary Movement of Toxic and Hazardous Waste, 1991;International Plant Protection Convention, 1951;Convention on International Trade in Endangered Species of Wild Fauna and Flora;Cartagena Protocol on Bio-safety to the Convention on Biological Diversity;Convention on Biological Diversity 1993;Bonn Convention on the Conservation of Migratory Species of Wild Animals, 1070;United Nations Framework Convention on Climate Change, (U.N.F.C.C.) and the Kyoto Protocol to the U.N.F.C.C, etc.

Consequent upon the forgoing positions, this paper raises fundamental issues from national laws, development policies and climate change with lessons from Nigeria's developmental experiences and proffers policy directions through recommendations that would place Nigeria on the path of the much desired development given its abundant natural resources.

Statement of the Problem

Man's quest for development has placed it in collusion with the natural environment. The present state of the world system and in specific terms Nigeria is however conditioned by the forces of nature which have resulted in varying degrees of changes in the climate. Introspectively, man-made laws and policies aimed at driving man's engagement with the environment towards development have in one way or the other affected the expected outcomes thereby limiting man's capacity to drive the necessary developmental outcomes. Importantly, the Nigerian constitution of 1999 (as Amended) in its section 16 (1) provides thus "the State shall, within the context of the ideals and objectives for which provisions are made in this constitution- " sub-section (a) further provides, "harness the resources of the nation and promote national prosperity and an efficient, a dynamic and self-reliant economy". On the other hand, the need for the protection of the environment was considered in section 20 which provides that "the State shall protect and improve the environment and safeguard the water, air and land, forest and wildlife of Nigeria".

These provisions however raise fundamental gap in man's engagement with the environment for achieving development without outcomes affecting the climate and the efforts aimed at protecting the environment with the aim of achieving meaningful development. Given the forgoing position, this paper examines the provision of the law and developmental policies within the prevailing climate changes with emphasis on developmental outcomes in Nigeria.

Methodology

The paper adopts the qualitative methods in its analysis. Specifically, secondary sources of data were used for its investigation and analysis. In this method, data already in existence were sourced and subjected to comprehensive re-analysis.

Theoretical Framework

In political discussions, theories are fundamental requirement for proper and objective operationalization of issues. Theories amongst other things also give proper perspective to political and social analysis. Consequently, this study is hinged on the theory of environmentalism as advanced by Schumacher (1973) which detailed a critique of the roles of modern industrial society towards achieving development through their interaction with the environment.

The theory holds that, modern industrial structures with all its advancement, sophistications, contribute in no small measure to the degradation of the very basis (the environment) on which it was built. Schumacher noted that, the earth and its non-renewable resources should not be placed on the line of capital which man often creates and then spend or invest. That, certain natural resources cannot be created and cannot increase when put into use. The consumption of these resources by modern industrial societies eats up the main fabrics which they are laid by implication is eating up its capital.

The theory contends among other things, “The blind race for increasing exploitation of natural resources in the name of development has alienated human beings from nature physically and spiritually. In order to restore a harmonious relationship between the two, humans will have to learn a degree of humility which is only possible through strict observation of existing laws and regulations guiding the conduct of man with the natural environment and the enactment of new laws by all stakeholders” Gauba (2007: 490).

The central point of the thesis as advocated by the theory holds that, in order to save mankind from imminent catastrophe, the dismantling of prevailing large-scale industrial system and replacement of same by smaller-scale manufacturing system which would be sustained by a number of self-governing communities who have unanimously agreed to pursue collective aspirations through legal frameworks. Environmentalist advocates a moral regeneration of humanity to ensure a just and equitable distribution of resources. If individuals of all countries realize their collective obligation to maintain a clean and congenial atmosphere on the globe, they will certainly make it habitable for the present as well as future generation.

Development: A Conceptual Review

Development and underdevelopment has no generally accepted definition but it worthy to establish the fact that it is the conscious or unconscious movement of a system either forward or backward. Depending on whatever direction a system is moving, it is important to state that no system is static. What would amount to development for a particular nation, group, planet, will definitely differ from the others. Be that as it may, a conceptual review of development and underdevelopment is appropriate.

Development discourses for decades have focused extensively on the plight and socio-economic status third world countries in Africa, Asia and Latin America. These descriptions have focused on comparison between the global South and North which has focused on countries across Europe. Importantly, the development of countries across divides is attributed to the availability of both human and material resources which essentially is predicated upon the capability of the domestic environment to convert same with human satisfaction at the centre through the forces of industrialization.

However, the concept development especially given its varied connotation has not given itself to a generally agreed definition, especially because, what is described as development varies from one society to the other. Corroborating this position, Idode (1989) avers that, development is a very problematic concept. He notes that, development has been used in different instances to mean different things particularly with reference to political, economic and social discourse. James (2018) in the same vein notes that development is a construct of many and varied application.

In the view of Okobiah (1984), development involves a process of economic, political and social transformation with a drive towards a better social well-being for the members of a given

society. Rodney (1972) within this line of thought also described development amongst human society as a many-sided process. For the individual, it involves increased skills and capacity, greater freedom, creativity, self-discipline, responsibility and material well-being. For the social group, it implies an increasing capacity to collectively regulate both internal and external relationship.

Historically, the role of European and American models of development in the developing countries on the one hand and on the continent of Africa in general can be linked to the post-Second World War international system. The outbreak and end of the war change significantly the posture and measure of nation's capabilities for individual growth. For the former colonial power in Europe, their economic capability to maintain their erstwhile colonies in Africa was weakened and also the nature of the international system has responded to the new-normal which no longer tolerated colonial relations, as colonial territories begin to pursue decolonization in response to global exigencies.

Contemporary writers on development focused on the contextual description of development. Dipholo cited in Akinyemi (2018) argues that development means different things to different people at different times and importantly, the concept development is environment specific. One peculiar understanding of development is considerable growth in *per capita* income or a structural transformation with greater similarity with the industrialized nations of the world. He further asserts that, development entails the ability of nations and persons make their own choices and decisions that would enable their independent growth processes and capabilities.

Other writers such as Ojoh (2008) asserts that, the system of government been practiced determines a state's development status is described. it was noted that, democracy is the most supported political tool for achieving comprehensive development with human satisfaction as fundamental because of the place of human right and instituting social change.

According to McLean and McMillan (2003), development is bound by time, place and circumstance and most importantly does not give in to a specific and generally observed formula. This is because, development only answer to a prevailing environment, as what is obtainable in a society might not hold sway in another society.

Also, Rodney (1972) describes development as entailing the capability of a society and its governing class to explore the various human and natural resources available within reach with an agenda to creating and addressing the various needs of the citizens. Therefore, development is achieved when resources both man and natural are put into proper and functional use which should alleviate and improve the living condition of the generality of the people.

Bringing to the fore the attributes of development Tyoyila and Terhenmen (2012) listed the following as fundamentals of development; good health and wellbeing of the population, good and profitable reward for labour force; improved standard and living quality for the masses; and unhindered education opportunities. Also, the availability of basic social amenities would help in

describing the development status of a country especially when situated within globally acceptable standard.

Issues of disparity in development status between the North and South or Core/periphery have dominated discourse especially given the force of globalization and inter-connectivity amongst nations of the world. On this note, Jensen and Sandstrom (2011) discovered that, debates on globalization and how its continued effect on world economy continue to provoke more and more controversy. Synder cited in James (2018) opines that the driving force of globalization was to open window of opportunities for trade and investment which would facilitate individual and group development without any hindrance. However trade and development inequality between the nations of the world created the dependency relationship between the global South and North.

The Climate and Development: the Contentious Link

Human activities are generally to be responsible for climate change and importantly activities that are directed towards development. These human activities can also be solution by the reduction of the amount of carbon absorb from the atmosphere through deforestation, land- use change, water pollution and Agricultural Production (Akanwa*et. al.*, 2016). In addition, developing countries are also involved in massive deforestation due to resource exploitation, urban expansion and efforts that are meant to change the course of human's life (Akanwa&Ikegbunam, 2017).

Despite the terms climate change and global warming are often used interchangeably, climate change is a broader term that incorporates both global warming and other observed changes in climate. Many scientists argue that the impacts of climate change will be devastating for natural and human systems and that climate change poses an existential threat to human civilization (reid, 2016). Efforts at driving development have caused humans to emitt about 450 billion tons of carbon since the industrial revolution (Akanwa and Joe-Ikechebelu, 2019). The adverse effects of the continued change in our climate on development have been on an increase most notable in the last two decades due to urbanization and reliance on energy source that release green-house gases.

Environmental protection and awareness is essential for the survival of any nation, this is more so because important economic infrastructure, such as oil refineries, sea port and industrial facilities will invariably be affected by environmental challenges that arise as a result of the degradation of the environment. For instance, the United Nations Development Programme (UNDP) has characterized climate change, one of the environmental challenges that Nigeria faces, as 'the defining human development challengefor the 21st century'. Its adverse effect is also considered one of the most serious threats to humanity, sustainable development and the environment.

This phenomenon climate change affects all nations of the world, however, while the industrial activities of the developed nations are mostly responsible for climate change the developing nations are these suffering the most due to inability to cope as a result of poverty and poor technological development (Ojoniguet. *al*, 2018). Climate change is a serious risk to poverty reduction and could undo decades of development efforts. While climate change is global, its negative impacts are more severely felt by poor people and poor countries. They are more vulnerable because of their high dependence on natural resources and limited capacity to cope with climate variability and extremes. Restoring and maintaining key ecosystems can help communities in their adaptation efforts and support livelihoods that depend upon the services of these ecosystems. Moving towards low-carbon societies can help reduce greenhouse gas emissions, improving human health and well-being and creating green jobs (Olufemiet. *al*, 2014).

Scientists agree that climate change will have greater negative environmental impacts in some regions than others, and that developing countries are likely to suffer greater negative impacts of climate change than developed countries, and that climate change will affect the potential for development in these countries. Scientists also agree that developing countries have contributed the least to the problem, but are the most vulnerable to the adverse effects of climate change.

Many developing countries located in tropical areas are already enduring climate extremes, such as very high temperatures, heat waves, droughts, hurricanes, floods, and variability in rainfall. The continued increase in global temperature will intensify these incidences of extreme weather conditions. For example, Nigeria is currently experiencing sea level rise, flooding, high temperatures, heat waves, droughts, and variability in rainfall. These extreme weather conditions result in several negative effects such as poor air quality, which increases air-borne diseases and increases the incidences of respiratory related illness.

Climate change is anticipated to have negative effects on sustainable development and the attainment of the MDGs, such as the eradication of extreme poverty and hunger, because of its negative effect on agriculture, caused by extreme weather conditions. Therefore, using climate change as an illustration, the degree to which the negative effects of climate change affects a nation will depend greatly on the robustness of the response to the effects of climate change on a national level, such as the effectiveness of adaptation and mitigation strategies adopted nationally. This will only be achieved if there is a good law on ground, coherent management and governance of the environment.

Law and Development

The Nigerian state like every other countries in the world is confronted with raging problems that has put a big question on the efforts of the citizens to make a comfortable living out of the vast resources that is available to human race; chief amongst this problem is raging discomfort that the environment has presented to man which is a product of developmental strides made by humanity to better its living conditions. Though human beings are constantly transforming the

fortunes of the environment for personal benefit, it has become more pressing that human custodians promulgate laws that will check human excess that pose challenges to the environment, thereby protecting the environment from eventual collapse.

The management and the protection of the environment for or against human's developmental efforts can arguably be classified as one of the biggest contemporary issues. This is because issues such as air pollution and climate change, ozone layer depletion, waste management, flooding and sea level rising require concerted international and national responses. In fact, there is a general recognition that the environment is important and that efforts should be made to protect it (Bell & McGillivray, 2008).

The last two decades and the present one have witnessed an increase in the number and complexity of laws seeking to protect the environment. Nigeria, as in other countries, has numerous primary and secondary environmental legislations and a large number of guidance and regulations to go with the legislations. Environment laws are a basic indigent that will protect and preserve the environment from all form of problems caused it by man who will by implication reduce the value and proceeds of environment to man which distorts the drive for development. The term 'environment' is a relational concept that means different things to different people. While some consider it to include virtually anything, others consider it as having a ratherspecific meaning by reference to physical non-human environmental media, including land, water, air, flora and fauna (Fagbohun, 2010).

The 1999 constitution of Nigeria is the first of its three previous constitutions to include a specific provision on the environment. This provision is contained in Section 20 of the constitution which states that "the State shall protect and improve the environment and safeguard the water, air and land, forest and wild life of Nigeria". The wording of Section 20 is quite broad to promote a broad framework for environmental protection and management. However, this provision is hampered because it is included under Chapter II of the Constitution and therefore forms part of the non-justiciable 'Fundamental Objectives and Directives Principles of State Policy.

The Relationship between Development and the Environmental Condition

Development as a concept cannot exist without interaction with other forces in the environment because the success or otherwise that will affect the development of any society is dependent on this co-existence; this interaction can therefore be characterized as one of interdependence. Just as development is impossible without a good condition of living environment, so quality environment cannot be maintained or intensively exploited areas without their sustainable development.

The impact of development on environment is determined specifically by the following two factors;

Approach to development

If we regard development narrowly only as economic growth, the quality of environment in general is not quite so important as abundance, quality and accessibility of natural resources of

raw materials and energy central for the economy. If we understand development more broadly, for example in the sense of sustainable development, the quality of environment and its sustainable condition will become one of key priorities. In that case, the long term preservation of environment's inhabitability or eventually the betterment of its condition (in case of its past devastation) will be at the centre of attention.

The condition or quality of living environment after/during implementation of development programmes. Also, the implementation of development programmes or projects can have negative or positive impacts on living environment.

Negative Impacts:

Programmes: construction of transport infrastructure, great water dams, cities; mining of natural resources of raw materials and energy etc.

Effects: fragmentation of natural habitats; loss of fertile soil; deforestation and soil degradation; pollution of environment; local climate change etc.

Positive Impacts:

Programmes: construction of smaller water dams; application of environment–friendly technologies etc. *effects:* increase in biodiversity; enrichment of landscape by cultural features; sustainable exploitation of environment for present as well as future generations.

The Impact of Living Environment on Development

Environment is one of the important decisive factors exerting influence on development possibilities. It is empirically known that diversified strategies of development must be applied in urbanised, industrial and rural areas. Different methods of development must be chosen in coastal and landlocked areas, different ones are valid in mountains and in lowlands. The type of ecosystem and climate of the area where we want to implement a development programme also play an important role. Among the most decisive factors rank:

- a. Climate Zone(tropical, subtropical, temperate zone);
- b. Basic Physical-Geographic Factors(e.g. elevation above sea-level, rainfall, temperatures),
- c. The Living Environment Quality(e.g. the degree of pollution, population density, expanse of deforested areas, the level of soil degradation and desertification),
- d. The Quality And Fertility Of Soil,
- e. The quality and quanta of natural resources of raw materials and energy,
- f. Accessibility of sustainable drinking water resources.

Flowing from the above therefore, many factors including desertification, environmental migration, food deficiency and over fishing has led to the world population having more needs than the available resources. The question to be asked at this stage is one that has over the years, in fact, since the Brandt report of 1980, been asked and some answers have been provided to. It is that of sustainable development.

Law, Climate Change and Nigeria's Development Process

Nigeria like every other developing or third world country across the globe has amongst other aspirations, the short and long term agenda of delivering the goods of development through carefully crafted policies to its growing population. These policies are expected to translate to visible development outcomes when government representatives and institutions make visible engagement with the natural environment. Within these development aspirations, national laws have provided for individuals and states action on the levels of interactions with the environment and its outcomes on the climate.

Despite Nigeria being signatory to a good number of Conventions/Agreements, the following are already domesticated in Nigeria which therefore made it a local enactment which in effect automatically becomes mandatory to be complied with unlike the ones just being a signatory to: CITES: Domesticated as : Endangered Species (Control of International Trade and Traffic) Act, Cap E9 LFN, 2004; Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (Ratification and Enforcement Act, 2005; Oil in Navigable Waters Act, Cap 05; LFN, 2004, Domesticated the International Convention for The Prevention of Pollution of the Sea by Oil and also Provides for Such Prevention in the Navigable waters of Nigeria; and Basel Convention on the Control of Trans Boundary Movement of Hazardous Waste and their Disposal; Harmful Waste(Special Criminal etc) Act, Cap H1, LFN 2004.

Although, excess emission of green-house gasses contribute to global warming, however, these gasses assist in the warming of the earth surfaces which without the temperature of the earth would be too cold making it difficult for sustenance of life. Global warming is one type of climate change and it drives other changes in the climate, such as changes in rainfall patterns and the frequency and distribution of weather events such as droughts, storms, floods and heat waves. The Nigeria government in its efforts to achieve development has taken giant strides in terms of developing policy for tackling climate changes such as Climate changed fund (CCF) Inequitable distribution of Clean Development Mechanism (CDM) Project in the developing countries, adaptation fund and deforestation.

Conclusion

It should be noted that before an International Environmental Law can become enforceable in any country, it must first be domesticated, that is, it must be enacted first by the Legislative arm of government. In the case of Nigeria, it is important to state that, the Conventions and Agreements just signed by Nigeria are in no way enforceable here in Nigeria. Thus, the fact that a country(Nigeria) is a signatory to an International Instruments does not make it practically enforceable in the country. It can only have a persuasive effect and not a mandatory effect.

It would be right to conclude that the devastating nature of the environment in Nigeria is not hinged on lawlessness but on the non-enforcement and recklessness of the machineries in place to ensure the enforcement and strict compliance with the laws in place to protect the environment and sustain same for the present and future generations.

The following recommendations were made;

- i) Proactive efforts that would ensure protection of the environment through domestication and workability of national and international legal instruments and still achieve meaningful development within the limitless human and natural resources available in Nigeria.
- ii) To achieve this, the Nigerian government with working alliances with international development partners must see the immediate need to follow global best practices in their various contacts with nature. The devastating effects of climate change are here though Nigeria is still classified as developing despite its natural endowment.
- iii) Government should expedite action that would see through the clean-up of the harmful environment of the Niger-Delta region where human lives is under harmful living condition. This effort should be complemented by promulgating laws that will be dedicated to addressing the poor environmental practices of the multinational cooperation operating in the region.

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