

A CRITICAL APPRAISAL OF THE CONCEPT OF SUSTAINABLE DEVELOPMENT AND WHETHER IT IS PRACTICABLE

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Abstract

The General principle of the concepts and examination of few countries which have introduced the concept into their laws with the view to assess the impact of the principle and its practicability.

Concept of Sustainable Development:

The concept of sustainable development originated in a realization that the world's environment its economics, and the ways in which it treats its human and animal inhabitants, are all interlinked.¹ What human being does have some consequences on the quality of natural resources on the earth These natural resources constitute the main sources of human livelihood. Thus, as the population of human increases exploitation of the natural resources in our environment also increases and so does the consequences of human activities on the environment. The resolution of the challenges posed by the need to sustain human developmental quest without subjecting the environments to extreme environmental pressure and eventual disaster brought about the concept of sustainable development In other words, development and conservation are seen as compatible and complementary Activities.

This can be seen in the definition of "sustainable development" as "improving the quality of human life while living within the carrying capacity of supporting ecosystem

As It relate to the environment, the concept is based on the concept of biosphere and the biological fact that "All life on earth is part of one great interdependent system, which influence and depends on the non-living components of the planet- rocks, soils, water and air, Disturbing one part of this biosphere can affect the whole..." Every human being has the same fundamental and equal rights, including: the right.... Within the limits of the Earth to the resource needed for a decent standard of living. No individual, community or nation has the right to deprive another of its means of subsistence every person and each society is entitled to respect of these rights; and is responsible for the protection of these rights for all others.

What is Sustainable Development?

There have been several definition of the concept "sustainable development", but the most widely accepted definition of sustainable development is that given in the Brundtland Report: "Development that meets the needs of the present without compromising the ability of future generation to meet their own needs"² sustainable development have also been defined as the development that meets the needs and aspiration of the current generations without comprising the ability to meet those of Future generation.³ The concept have also been defined to includes improving the quality of human life while living within the carrying capacity of supporting ecosystem.⁴

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¹Thornton j. and Beckwith, S; Environmental law (London: sweet & Maxwell, 2nd ed. 2004) 12

Ajani⁵ opines that the concept of sustainability unifies conservation of nature's resources and development. He sees development and conservation as compatible and complementary activities. According to Nico Vesser⁶ sustainable development means development without lasing species and their habitants.

From the above definitions, it can be said that sustainable development is concerned with comprehensive view of human wellbeing. rights to the environmental inhabitants to determine the quality of their lives and those to their future generation without subjecting the environment to any form of man-made environmental hazard.

Concerned Awareness and Emergence of the Concept of Sustainable Development

The state of the environment is a major worldwide concern today, when environmental issues has become more pressing than ever before and the challenge to society posed by environmental degradations unprecedented. Under those circumstances the topmost priorities of the 21st Century economic and industrial development agenda are sustainability and poverty. International rules on environmental concerns date from the early nineteenth century. At that time, Attention centered on the exploitation of natural resources as a result of growing industrialization.⁷

The international response to environmental issues was characterized by ad hoc reactions to immediate problems, but was significant nonetheless because it recognized that co-operation between states was necessary.⁸ In 1941, the Trail smelter Case arose.⁹ This was a dispute between Canada and the United State over the emission of sculpture fumes from a Canadian smelting works, which causes damages to crops, trees and pasture in the United State. Both submitted the matter to arbitration. The tribunal held that under international law. "... no state has the right to use or permit the use of its territory in such a manner as to cause injury by fumes in or to the territory of another or the properties or persons therein, when the case is of serious consequence and the injury is established by clear and convincing evidence."

The international community made several effort toward creating awareness an emergence of the principles of sustainable development and these were enunciate in stockholm Conference of 1972, the Brundtland Report of 1987 and The Declaration of 1992, United Nation conference on the environment 1999, United Kingdom and African continent.

² Report of the world commission on environment and Development:- Our common future (1987) (The Brundtland Report).

³ Saba Abdul Rasheed K, "After Rio What Next in Environmental law and sustainable Development in Nigeria, Ajomo M. and Adewale O. ed (Lagos NIALS and British Council, 1994) at I cited in Environmental law in Nigeria. Theory and practice, Atsegdua L; Akpotaire., Dimowo F., Ababa Press (2004) at 54.

⁴ Ajai w. "Achieving Environmental protection through the vehicle of Human Rights: some conceptual, legal and Third world problems" (1995) UBLU Vol 2 No 1 at 42

⁵ Ibid Supra Note 4 and complementary activities. According to Nico Visser⁶ sustainable development

⁶ Why Bio - Diversity must be conserved Innovation Vol 2 No 3 (1992) published by African Centre for Technical studies, Nairobi.

⁷ Ibid supra Note 1 at 33

Stockholm Conference, 1972

The need for sustainable development of nature's resources began to acquire a global momentum with the organization of the United Nations conference on Human Environment held at Stockholm (Sweden) in 1972.¹⁰ "Prior to this time the attitude of states to their activities within the environment was conservative and Individualistic, geared towards economic gain and emancipation without regards for the universal problems that may arise from a reckless exploitation of the earth's resources. Attended by 114 states, the conference provided an opportunity to Formulate coherent analysis of environment problems,¹¹ and a declaration issued by the participating states proclaimed that: "A point has been reached in history when we must shape our actions through the world with a more prudent care for their environmental consequences."¹²

The Stockholm conference came out with the declaration of principles for the preservation and enhancement of the human environment aimed to tackle the deterioration of the environment as a result of the impact of human developmental and population growth on the earth.

It is instructive to note principle 1 which set the tone for the concept of sustainable developments in modern international law.

Principle 1

Man has the fundamental rights to freedom, equity, and adequate condition of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generation.¹³

Other principles that are important to the concept of sustainable development declared at the Stockholm conferences includes:

Principle 2

The natural resources of the earth including the air, water, land, flora and fauna and especially representative samples of natural ecosystem must be safeguarded for the benefit of present and future generation through careful planning or management, as appropriate.

Principle 3

The capacity of the earth to produce vital renewable resources must be maintain and wherever practicable, restored or improved.

⁸. Ibid Note 1 at 33

⁹. (1941) 3 R.I.A.A 19

¹⁰. Atsegbua, L ed. Environmental law in Nigeria; Theory and practice (Lagos: Apapa press) 56

¹⁰. Atsegbua, L ed. Environmental law in Nigeria; Theory and practice (Lagos: Ababa press) 56

¹¹. Ibid. Note 1at 34

¹². See 10 UN Document A/C ONF, 48/14/rev./ (UN Pub. E73.ILA (1973), adopted June 16, 1972.

Principle 4

Man has special responsibility to safeguard and wisely manage the heritage of wildfire and its habitat, which are now gravely imperiled by a combination of adverse factors, Nature conservation including wildfire must therefore receive importance in planning for economic development.

Principle 5

The non-renewable resources of the earth must be employed in such a way as to guard against the danger of their future exhaustion and to ensure that the benefit from such employment are shared by all mankind, Principle 7 States shall take all possible steps to prevent pollution of the seas by substances that are liable to create hazard to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea.

Principle 21

States have in accordance with charter of the United Nations and the principle of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activity within their jurisdiction or control do not cause damage to the environment of other state or of areas-beyond the limit of national jurisdiction.¹⁴

Agenda 21 of the Stockholm Declaration conceded to nations the right to exploit their resources pursuant to their environmental policies, but commits them to "insure that activities fall within their jurisdiction. This naturally marked the beginning of international efforts at raising awareness for, and the adoption of legal regimes in various countries aimed at entrenching the principle of sustainable development as a cannon of environmental law."¹⁵

The Brundtland Report

In 1970's and 1980s the nature and extent of the world's environmental problems were changing rapidly, not only because the rate at which human activity was affecting the environment increased dramatically, but also because of increased scientific knowledge in relation to the global warming effects of fossil fuel emissions and mass deforestation.¹⁶

Brundtland report adopted the definition given by the tribunal in Trail smelter Case "...development that meets the needs of the present without compromising the ability of future generation to meet their own needs".

Prior to the report of the world commission on environment and development (otherwise called the Brundtland Report, 1987) the attitude of states to their activities within the environment was conservative and individualistic; geared towards economic gain and emancipation without regard for the universal problems that may arise from a reckless exploitation of the earth's resources, but the report brought a significant shift in the attitude of nations which had compartmentalized human activity and its environmental effects within broad areas of concern such as "environmental", "economic" or "social". The Report hinged the cornerstone of environmental problems on poverty.

¹³. Ibid. Note 1 at 34 and also see generally note 12.

Poverty arising from the destruction of vegetation to obtain food, or timber for fuel or building, left land unprotected from above, so that its soil was washed away by rain. Without adequate soil, the land no longer retained water and became incapable of producing further food or timber, forcing the population to turn to new land and repeat the process of destruction.

The United Nations Department of Economics and social affairs, the Division for sustainable Development¹⁷ has advocated improving access to sustainable live hoods, entrepreneurial opportunities and productive resources including land, water, credit, technical and administrative training, and appropriate technology, with particular efforts to broaden the human and social capital basis of societies so as to reach the rural poor and the urban in formal sector as well providing universal access to basic social services including basic education, health care, nutrition, clean water and sanitation as a means to eradicating poverty with the efforts of individual governments and international cooperation and assistance.

The BRUNDTLAND REPORT concluded that to achieve sustainable development, four mechanisms must be put in place to meet the basic needs of the world's population and extend the opportunity to all to fulfill their aspirations for a better life. These mechanisms were:

- a) Effective economic growth for poor nations
- b) The participation of citizens in decision-making
- c) The adoption by the more affluent nations, of lifestyle within the planets ecological means, particularly by reducing their use of energy
- d) The control of population growth.

Rio Declaration 1992

In 1992, the United Nations Conference on the Environment and Development ("Earth Summit") was held in Rio de Janeiro. Brazil. It was attended by approximately 10,000 delegates from 176 states. The Rio Declaration consolidate the concept and placed it firmly on international agenda, however, the Rio Earth Summit is not legally binding but have strong political backing

The conference produce the following principles inter alia:¹⁸ The first principle of the Rio Declaration states that human beings are at the center of concern for sustainable development, and that they are entitled to a healthy and productive life in harmony with nature.

The third and fourth principle states that the right to development must be fulfilled so as to meet equitably developmental end environmental needs of present and future generations and that in order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it.

^{15.} Ibid. Note 10 at 56

^{16.} Ibid. Note lat 35

^{17.} [http://www.un.org/esa/sustdev/sedissues/poverty/poverty decisions](http://www.un.org/esa/sustdev/sedissues/poverty/poverty%20decisions). (Accessed 5/3/2010).

These two principals have proved controversial the reference to a right to development in principle 3 was seen as a victory for developing states because it was the first time it had ever been referred to in an international instrument. Principle 3, however, with its reference to meeting environmental as well as developmental needs, may be taken to imply that development must sometimes be compromised to achieve environmental goals.

Principle 4 brings environmental considerations into the core of international law as it relates to economic development. One commentator believes that sustainable development is firmly integrated into the international law of human rights. Another commentator argues¹⁹ "...a right is a claim to something that is necessary for development. Furthermore, the acceptance of the claim by others is itself a part of the development process... Rights are claims to the requirements for human developments and the exercise of those rights are consequently the necessary actual conditional for development".

It is of course possible for a country to achieve economic growth and industrialization by means of gross abuse of human rights but such a process will still not amount to development within the definition set out above. Nor is such 'development' sustainable²⁰ The integral of environmental, economic and human rights issues is also apparent in principle 5 of the Rio Declaration, which as a prerequisite of attaining sustainable development, exhorts all states and all peoples to cooperate in eradicating poverty in order to decrease international disparities in standards of living and better meet the needs of the majority of the world population.

Principle 8 states "to achieve sustainable development and a higher quality of life for all people, states should reduce and eliminate unsustainable patterns of production and consumption and promote appropriate demographic policies".

The principles were Agenda of action adopted which mapped at wide-range programme needed to move towards sustainability. A key element at Rio as those individual countries should establish their own sustainable development strategies.²¹

United Nation Conference on Environment (UNCED), 1999

The UNCED appears as the culminating effort of the international community to project the question of sustainable development as the bedrock for the formulation of environmental policies. The period between the 1972 Stockholm Conference and the Rio Conference of 1992 contained a marked departure from conservative individualistic attitude of states which identified the primacy of economic gains and emancipation, to a more liberal appreciation of the universe dangers arising from environmental policy that is adamant to the concept of sustainability.²² On the African Continent, like others, efforts were made to utilize regional treaties as a vehicle for advancing the need for the adaptation of the concept of sustainability in the exploitation of resources.

^{18.} See generally Rio de Janeiro Declaration on Environment and development June 16,1992. UN Doc. ACONF. 1515.

^{19.} McGodrick "Sustainable Development and Human Rights; An integrated conception" (1996) H5 1.C.L.O. 769

The provision of Article 24 of the African Charter on Human and people Rights, 1981²³ which was adopted by African states without fuss, since environmental hazard were perceived purely as a product of industrialization and therefore un-Africa, forms a good example of these efforts. The article provides that the Charter however came into force in 1986.

All people shall have the right to a general satisfactory environment favorable to their development. This was closely followed by the Bamako Convention of 1990 by which the importation of all forms of hazardous wastes into Africa was banned. The Loma IV Convention of the ACP/EEC countries as well as the Lagos plan of Action quickly followed suit. The immediate effect of these global and regional efforts was the realization by states of the need to provide municipal legislation required to manage the environment in a manner which insures the maximum benefit for all.²⁴

How far these global trends have achieved their principal aim of sensitizing awareness for the concept of sustainability is a matter of individual opinion. It suffices however, that environmental issues are becoming more topical in recent years. A concept of development today without an inherent adoption of the sustain-ability principle is invariably regarded as anachronistic.²⁵ In 1986 United Nations Declaration on the right to develop, the term "development" was defined as: A comprehensive economic, social, culture and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting.

It has now dawned on the international community that the world is indeed a global village environmentally. And an individualistic environmental policy that fails to adopt uniform global approach is doomed to catastrophic failure.²⁶

General Principles of Sustainable Development

Five General principles of sustainable development have been identified, they are:

- a) Intergenerational Equity (meeting the needs of future generations)
- b) The sustainable use of natural resources
- c) The equitable use of natural resources
- d) The integration of environmental protection and economic developed

Intergenerational Equity

Fulfills the first requirement of the Brundtland declaration, that is "meeting the needs of the present" while considering the needs of the future generations. The theory of intergenerational equity assumes that each generation receives a natural and cultural legacy in trust from previous generations and holds it in trust for future generations. The U.K. government has interpreted this in terms of the concept of 'stewardship of the world.'²⁷

²⁰ O.Manique J. "Human Rights and Development" (1992) 14 Human Rights Quarterly No 1 at 78

²¹. Ibid Note 4 at 54

²². Ibid Note 1 at 12

Sustainable Use of Natural Resources

States are supposed to control the rate of exploitation of the resources within their jurisdiction. It has been noted that international instruments which refers to the principle of sustainability seldom specify exactly how resources are to be used in a sustainable way. Nor do they specify particular resources Such as fossil fuels. At present, therefore, there is no general obligation of states not to exhaust non - renewable energy resources.²⁸

Intergeration of Economic Development and Environmental Protection

This means that environmental considerations must be taken into account in economic decisions and development decisions and that, in turn, environmental decisions must take account of economic and social development.

Sustainable Development and Environmental Degradation

Environmental degradation is the damage to a local ecosystem or the biosphere as a whole due to human activities, environmental degradation occurs when nature s resources (such as trees, habitat, earth, water and air) are being consumed faster than nature can replenish them, An unsustainable situation occurs when natural capital (the sum total of nature's resources) is used up faster than it can be replenished, Sustainability requires that human activity, at a minimum only uses nature's resources at a rate at which they can be replenished naturally.²⁹

Legal Framework on Sustainable Development

The language of sustainable development is frequently heard in discussion of environmental law and policy at every level. Indeed such language appears in international, regional, national and local laws and regulations aimed at protecting the environment. The legal framework are meant at addressing comprehensively environmental problems, such as global warming, climate change, deforestation, desertification, loss of biodiversity, ozone layer depletion, marine pollution and impoverishment of the ecosystem. Legal approaches employed in environmental laws and regulations covers several issues. But the common principle, which characterizes this legal framework, is the prevention of environmental damages source in this sub-topic we shall state some of the international Regional and national laws, treaties and policies directed toward sustainable development. A few countries, which have introduced the principle of sustainable development into their laws, will be examined here.

Some international legal Framework geared towards achieving sustainable development are summarized below:³⁰

- Montreal protocol 1987: The Montreal protocol addresses depletion of the ozone layer by manmade ozone depleting substances (ODS) such as chlorofluorocarbons (CFC) (used in aerosols, refrigeration equipment and some plastics), halons (used in fire extinguishers) and the common agricultural pesticide methyl bromide The protocol sets target date by which developing countries must phase out the production of ODS.

23. Tbid supra Note 10at 57

24. Ibid.

25. Ibid.

26. Ibid

Developed countries provide funds through a multilateral fund to meet the incremental costs to developing countries of meeting their commitments under the protocol. Up to 30% of each donor's total contribution to the multilateral fund may be spent bilaterally with developing countries.³¹

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- Common agricultural pesticide methyl bromide. The protocol sets target dated by which developing countries must phase out the production of ODS. Developed countries provide funds through a multilateral fund to meet the incremental costs to developing countries of meeting their commitments under the protocol. Up to 20% of each donor's total contribution to the Multilateral Fund may be spent bilaterally with developing countries.³²
- Agenda 21: This has been considered above under the Rio Earth Summit, but suffices to state here that Agenda 21 is the program of action adopted at the 1992 Rio Earth Summit. It is not legally binding but has strong political backing. It is comprehensive, with 40 chapters dealing with all aspects of sustainable development including its social and economic dimension which includes the conservation of resource (deforestation, sustainable agriculture, waste and water) and means of implementation (aid, public awareness and education). Chapter 17 deals with discharge of oil into coastal waters from maritime transportation offshore, and exploration and exploitation among other sources of pollution.³³

United Nations Convention on Biological Diversity (UNCBD): The objectives of this convention are the conservation of biodiversity, the sustainable use of its components and the fair and equitable sharing of benefits arising from the use of genetic resources. The convention requires all signatories to monitor diversity of species in their country and implement a strategy to maintain it. Funding for developing countries and countries in transition is available through the Global Environment Facility (GEF).³⁴

- United Nations Framework Convention on Climate Change (UNFCCC) 1994: The objectives of this convention is the stabilization of greenhouse gas (GHG) concentrations in the atmosphere at a level that will limit global warming and its associated effects of sea level rise, extreme climate disturbances and shifts in agricultural patterns. Stabilization is to be achieved within a time frame that will enable ecosystem to adapt naturally to climate change, ensure that food production is not threatened and ensure sustainable economic development.³⁵

27 The Common Inheritance. Cm 1200(1990)

28. Sands, Principles of International Environmental Law (1995).

29. <http://www.wikipedia.org/wiki/sustainabledevelopment> (accessed 5/3/2021)

- United Nations Convention to combat Desertification (UNCCD) 1996: The Desertification Convention, expected to come into force In 1997, addresses the problem of land degradation in arid, semi-arid, an sub-humid areas. It emphasizes the need for action to promote sustainable development at community level and encourages a participatory approach.³⁶
 - Rio Forest Principles: Efforts to negotiate a forests convention at Rio failed, but a non-binding set of guidelines- the Rio Forest Principles was agreed. Intergovernmental panels on Forest (1PF), in 1995 was established which carried out a report in 1997 on measures to ensure the implementation of the Rio Forest Principle. The aim is to help establish sustainable forest management.³⁷
 - Convention for co-operation in the protection and Development of the Marine and Coastal Environment of the West African Region of 1981.
 - African Convention on the conservation of Nature and Natural resources of 1968.
 - Bamako Convention on the Ban of the import into Africa and the Control of trans boundary movement and management of Hazardous wastes within Africa. Adopted 30 Jan 1991
- A few countries, which have introduced the principle of sustainable development into their laws, are.

United Kingdom

The United Kingdom (U.K) was one of the first to respond to the call at Rio on countries to establish their own sustainable development strategies; by publishing the first U.K strategy for sustainable development in 1994.³⁸ that document provided a framework for shaping initial action toward sustainability. In 1999, the U.K government launched a new strategy on sustainable development which integrates the economic, social and environmental policy in a more fundamental way. The new strategy was titled "A Better quality of life".³⁹ The creation of this strategy and formal annual assessments of progress made in implementing it, kept sustainable development on the Agenda.⁴⁰ The annual assessments show where progress is meant for the being made and where it is lacking.

The U.K primary legislation⁴¹ meant for the Protection of the environment spelt out clearly that the environment agency created under the law has a statutory duty to contribute towards obtaining Sustainable development. The planning and compulsory purchase Act 2004⁴² imposes on planning officials a duty to exercise their functions with the objective of contributing to the achievement of sustainable development.

^{35.} Ibid

^{36.} Ibid

^{37.} Ibid

The concept of sustainable development has achieved widespread importance in U.K environmental law and policy and achieving sustainable development is the principal aim of the Environmental Agency.⁴³

The 2005 UK sustainable development strategy has the objectives of enabling all people throughout the world to satisfy their basic needs and enjoy a better quality of life, without compromising the quality of life of future generations.⁴⁴

Poland

Article 5 of the 1997 Polish constitution requires that "the Republic of Poland shall safeguard the independence and integrity of its territory and ensure the freedoms and rights of persons and citizens, the security of the citizens, safeguard the national heritage and shall ensure the protection of the natural environment pursuant to the principle of sustainable development".⁴⁵

France

In 2004 along with the list of human rights set out in the 1989 French Declaration of the Rights of Man and the Citizen and in the preamble of the 1946 constitution of the fourth Republic, an environmental charter was added to the constitution, recognizing among others a duty to preserve the environment and the right to live in a "balanced and health respecting" environment.⁴⁶

Venezuela

The Venezuelan constitution of 1999 mentions the desirability of sustainable development.⁴⁷ It is imperative to note that the proposed treaty establishing a constitution for Europe also includes sustainable development as one of the European Union's objectives.⁴⁸

Nigeria

Over the years, Nigeria has enacted laws with respect to her environment, incorporating the principle of sustainability. Good examples are: the Environmental Impact Assessment Act 1992, the National Environmental Standards and Regulations Enforcement Agency Act, 2007. The agency has responsibility for the protection and development of the environment, biodiversity conservation and sustainable development of Nigeria's natural resources in general and environmental technology, including coordination and liaison with relevant stakeholders within and outside Nigeria on matters of enforcement of environmental standards, regulations, rules, laws, policies and guidelines.⁴⁹ Also enacted is the Forestry Laws of States in Nigeria which places emphasis on re-planting our depleting rain forests,⁵⁰ Mineral Oil (Safety) Regulations 1963 Act, The Human Wastes (Criminal Provisions) Act No. 42 of 1988.

³⁰ Nwafor J. C. Environmental Impact Assessment for sustainable development

³¹ The Nigeria perspective (EDPCA Publishers, 1 ed 2006) 433

³² Ibid

³³ Ibid

³⁴ Ibid

In the Nigeria situation, a period of change attitudes towards the environment and re-orientation of mindsets is necessary to improve the destruction caused by massive exploitation of nature's resources occurring on an almost every day basis.

Nigeria is also a signatory to all the treaties mentioned above under the sub-topic: Legal framework. Some others not mention above includes:

- (i) The Kyoto protocol, 1997⁵¹
- (ii) Basel Convention on the Control of Trans boundary movement of Hazardous Waste and their Disposal 1989⁵²
- (iii) Montreal protocol on substances that deplete the ozone layer 1992⁵³
- (iv) Vienna Convention for the protection of the Ozone layer, 1985⁵⁴

The various constitutions by which Nigeria has been government since independence 1960 made no provisions either for environmental protection or for enabling a citizen to enforce his fundamental right to a clean environment. This is reason why the constitutional basis for the protection of the environment and conservation of natural resources is considered rather weak by those who would like to see a stronger and more direct constitutional provision addressing the issue of environmental protection and conservation entrenched in the country's constitution.⁵⁵ The 1999 constitutions contain some provisions enabling citizens to enforce their fundamental rights to a clean environment except that such provisions might not be justiciable.⁵⁶

Since Rio however, the developed nations have instituted environmental laws aimed at entrenching sustainable development. The United States and the EC countries have initiated laws that seek a cut-back in the rate of pollution emission with a view to maintaining their 1986 levels.⁵⁷ They have equally created funds for the conversion of dangerous refrigerants with high levels of chlorofluorocarbons (cfes) affecting the ozone layer and leading to problems associated with global warming. A few countries in the third world have benefited from this fund.⁵⁸

Weaknesses of the Concept of Sustainable Development

There have been some shortfalls in the implementation of environmental laws and policies geared towards sustainable development discuss herein below.

In the last three decades, the position of the developed countries on environmental protection have been positive but suspect; there has been the need to preserve the gains of industrialization and to consolidate on same through a protective environment.

³⁸. Ibid. Note 1 at 12

³⁹. Ibid

⁴⁰. Ibid

⁴¹. Environmental Act, 1995

⁴². http://en.Wikipedia.org/wiki/sustainable_development (accessed 5/3/2010)

⁴³. Ibid supra Note 1 at 12

⁴⁴. Ibid Note 42

⁴⁵ Ibid.

The developing countries on the other hand would not sacrifice development and economic growth at the altar of environment protection.

The need to feed the teeming population and eradicate poverty features prominently on the national priority of third world countries which consider environmental problems as the creation of the developed world which problems must be tackled from their end not only by utilizing the scientific resources and technology at their disposal, but also by transferring such resources and technology to the third world countries to enable the latter cope with the environmental problems arising from under-development.⁵⁹

The existence of accusations and counter accusations between countries of the North and those of the southern hemisphere highlight their divergent views on environmental protection. Their respective positions are well established as far as matters of environmental laws and their legal controls are concerned.⁶⁰

The then Malaysian prime minister captured these concerns in Rio in 1992 In the following: "it is claimed that one of the causes of environmental degradation is the size or the population of some developing countries. We dispute this assumption. However, we note that rich developed communities tend to have low birth rates. If we want to reduce population growth then we must help poor communities to become developed. Yet we hear from the rich, proposals which would result in stopping development of poor countries in order to reduce population. We know that the 25 percent of the world population who are rich generates 85 percent of its waste... (but) the rich will not accept a progressive and meaningful cutback in their emission of carbon dioxide and other greenhouse gases because it will be a cost to them and retard their progress. Yet they expect the poor people of the developing countries to stifle even their minute growth as if it will cost them nothing.. The other issues before us is biodiversity, the poor countries have been told to preserve the forest and other genetic resources on the off-chance which might prove useful to humanity.. now we are told that the rich will not agree to compensate the poor for their sacrifices. The rich argue that the diversity of genes stored and safeguarded by the poor are of no value until the rich, through their superior intelligence release the potential within: it is intellectual property and must be copyrighted and protected.. Obviously, the north wants to have a direct say in the management of forests in the poor south at next to no cost to themselves. The pittance they offer is much less than the loss of earning by the poor countries has and yet is made out as a generous concession."⁶¹

⁴⁶ Ibid 47. Ibid_Note 10 at 60

⁴⁷ Ibid Note10 at 60

⁴⁸ Ibid.

⁴⁹ . National Environmental Standards and Regulations Enforcement Agency Act 2007, section 2

⁵⁰ . Ibid supra Note 10 at 60

⁵¹. ILM 31 (1991), 878

⁵². ILM 28 (1989), 652

⁵³. ILM 30(1991), 539

The above view reflects the dialectics that now constitute the environmental policies of various countries around the world. Their respect municipal environmental laws and legislation have not varied much from the reflection of this view.⁶²

Economic interest of various governments also weakens the applicability of the principles of sustainable development towards a better environment.⁶³ Countries are generally prone to paying attention to the immediate requirements of the economy to larger environmental goals. In pursuing economic growth, governments depend on the support of business concerns and multilateral corporations whose interests are paramount to policy making. There is the general tendency to use environmental regulations only sparingly and the reluctance to jeopardize present and palpable economic advantages to avoid future and uncertain environmental Costs.⁶⁴

The international court of justice (ICI) was established under the UN charter to serve as the principal judicial organ. The court clearly has competence to hear environmental complaints. However, for diplomatic reasons, states do not tend to see ds appropriate to invoke the full might of the I to resolve their environmental disputes, Thus, whilst in 1992 the court established a special seven member chamber for hearing environmental cases, not a single case has yet come before it.⁶⁵ The result 1s a lack of international judicial opinion of the various countries understanding of what the principle of sustainable development stands for.

Conclusion and Recommendations

We now live in a global village where even a walled, militarily well-secured sovereign state is powerless in the face of environmental catastrophes. Indeed there is not single autonomous state sovereign ecosystem; there is only one air and water system on which the entire planet and all life depend. The international community has thus come to the realization that the problems of the environment demand international concerned action to resolve them. To this end environmental law provides a basis for the solution of the problems of the environment.

⁵⁴. ILM 26(1987)

⁵⁵. Okorodudu-Fubara, M.T, 1996: Legislative framework for National Strategy and Action Plan for biodiversity conservation in Federal Environmental protection agency (FEPA) Nigeria biodiversity (First Draft), FEPA, The presidency, Abuja, pp.1-14.

⁵⁶. constitution of the Federal Republic of Nigeria, (1999) Sections 20 and 6 (6)c

⁵⁷. 1bid supra Note 10 at 59

⁵⁸. Tbid

⁵⁹. Simpson and Fagbohun: sustainable development and environmental diplomacy

⁶⁰. Ibid Note 10 at 58

⁶¹. Ibid Note3

⁶².Ibid supra Note 10 at 59

There is no doubt that the emerging concept of sustainable development is gaining popularity all over the world. However, what remains to be seen is the extent to which the laudable concept has been applied in preserving the world's ecosystem. The horrors of global warming, depletion of the ozone layer, deforestation, desertification, oil pollution, and dumping accumulation of cosmic dust, acid rain, greenhouse gasses and emission of radioactive substances into the atmosphere are problems that have left the world's ecosystem at the mercy of man's activities.

Progress towards sustainable development can best be achieved by working within a sound unilateral, bilateral and multilateral co-operation amongst states to implement strategies for sustainable development in environmental policies. Without effective global implementation of strategies for sustainable development, the concept will only remain a mirage.

The countries of both the North and South Hemisphere need to co-operate and work toward all comprehensive sustainable development in order to ensure the continued existence of the earth.

To achieve desired sustainable development, states should encourage environmental protection norms in all economic activities and eschew greed, wasteful life styles, and parochial interest in environmental issues in order to meet the present needs and without jeopardizing the ability of future generation to meet their own needs.

If the concept of sustainable development must be totally realized, there is a need to contain uneven development, stimulate industrial efficiency through the efficient use of natural resources and therefore minimize waste, encourage new innovation and introduction of clean technology to reduce emission and minimize pollution, encourage state to implement environmental legislative framework.

Finally, sustainable development is more concerned with long-term goals than short-term goals. The consequence of policies and program has to be geared serving the future decades.

⁶³. Ibid Note 59

⁶³. Ibid

⁶⁴. Ibid Note 1 at 38.

⁶⁵. Ibid