

THE AFTERMATH OF BRUNDTLAND COMMISSION'S REPORT: BEDROCK TO INTERNATIONAL ENVIRONMENTAL LAW CONSCIOUSNESS AND SUSTAINABLE DEVELOPMENT*

Abstract

In environmental parlance, environmental consciousness 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 sustainability as a canon of environmental law. Ordinarily, consciousness depicts the state of being able to use your senses and mental powers to understand what is happening. Global efforts are considered and lack of uniformity in attitude towards universal environmental problems emanating from the various economic segments is trumpeting the need to maintain sustainable development with little attempts to scratch the surface of the problems emerging. This gave rise to the need for consciousness qua environmental awareness. The précis of this paper is an explanation of the positive effect of the Stockholm Conference which came as a report (otherwise called a Brundtland Report) by the Commission. It rekindled the need to foster "sustainable development" which has gradually come to underpin Environmental Law at the International level. Sequel to this report, nations of the world started to enact laws, rules, orders, and policies in order to contend the man's excesses against the natural environment for sustainable development. We adopted doctrinal methodology; using primary and secondary sources in our data collection. We recommended the need to enact active laws devoid of conflicting provisions and roles, create awareness to people to be conscious of them and devise methods for their implementation and obedience in the spirit of sustainable development in line with internationally established standard.

Keywords: *Environmental consciousness, Brundtland Commission, Bedrock, International Law, Sustainable development and Stockholm Conference.*

Introduction

The world commission on Environmental Law (NCEL) advances environmental law across the globe by providing specialized knowledge and assistance to strengthen the legal foundation of the conservation of nature and sustainable development through the conceptual advancement of environmental principles, norms and laws; and by building the capacity of communities to benefit from the environmental rule of law.¹

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¹World Commission on Environmental Law, 'A Volunteer Global Environmental Law Network', available online at <https://www.iucn.org/commissions/world-commission-environmental-law> accessed on 4th January, 2022

The need for sustainable development of natural resources began to acquire a global momentum with the organization of the United Nation's Conference on the Human Environment held at Stockholm in 1972 (also called the Stockholm Conference).²In concrete terms the Declaration of 21 Principles which was to act as a guide to the international community for the preservation and enhancement of the human environment as well as the Constitution of the United Nations Environmental Program (UNEP) were some of the major outcomes of the Stockholm Conference.³ Agenda 21 of the Stockholm Conference which is *impari materia* with principle 2 of the Rio Declaration of 1992 conceded to nations the right to exploit their resources pursuant to their environmental policies, but commit them to ensure that their activities fall within their jurisdiction.⁴

The United Nations Conference on Environment and Development (UNCED) 1999 appeared as the culminating efforts 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 attitudes of states which identified the primacy of economic gains and to a more liberal appreciation of the universe dangers arising from environmental policy that is adamant to the concept of sustainability.⁵

The Brundtland report, "Our Common Future" came up in 1987 by the Brundtland Commission. Recall that the Brundtland Commission – "The World Commission on Environment and Development (WCED) chaired by Norwegian Prime Minister, Gro Harlem Brundtland was established in 1983 by the United Nations General Assembly. Its report in 1987 rekindled the need to foster sustainable development which has gradually come to underpin Environmental Law at the International level.⁶

The United Nations idea focused essentially or specifically on warfare in the realm of international law, with the main purpose of promoting international comity and amity.

²L Atsegbua, V Akpotaire and F Dimowo, *Environmental Law in Nigeria – Theory and Practice*, (New ed., Benin City, AMBIK Press, 2010), 71

³*Ibid* at p. 72. See also R Malcolm "A Guide to Environmental Law (London: Sweet & Maxwell, 1994, 9-11

⁴G Handl "State liability for Accidental Transnational Environmental Damage by Private Persons (1980) 74 AJIL 525 at 528

⁵(n 1)

⁶Y D U Hambali "The Development of Environmental Law in Nigeria" and its Integration in Decision Making Process" (2002) *Nigeria Law and Practice Journal* 154. See also L Atsegbua et al at p. 73

With the United Nations opening the way, sovereign nations followed, including Nigeria⁷.

Before 1988, Nigeria for instance has no properly defined and articulated policy on the environment. There were only transient laws and regulations which lacked coordination or coherence in a concerted focus at improving the decaying environment. Perhaps the first legislation, which had to do with part of the environment, was the Criminal Code.⁸ The Act provides for offence against Public Health in Sections 243 to 248 of The Penal Code⁹

The first comprehensive statute on the environment was promulgated in 1988. It is the Federal Environmental Protection Agency (FEPA) Decree.¹⁰ The genesis in the development of national and international laws *qua* Legislations by nations was as a result of the United Nations policy which culminated in the Brundtland report which was put in place by Brundtland commission. This is exactly the basis of this paper.

CONCEPTUAL CLARIFICATIONS

The Concept of Sustainability and Sustainable Development

Sustainable development is seen as constituting development that meets the needs of the present without compromising the ability of future generations.¹¹ It is the use of natural resources in a manner that can be maintained and supported over time, taking into account the needs of future generation.¹² Sustainability is the capacity to ensure. In a more general scientific sense, sustainability is equivalent to *continuum* or the ability to continue a course without termination. Therefore, sustainability is compatible with the existence of the universe and it is the ability to maintain a definite stable outcome. The evolution to a sustainable state is predictable. However, the form or state that is sustainable can be changed with intelligence or systematic intervention during the course of evolution.¹³

⁷A Omaka, *Nigerian Conservation Law and International Environmental Law* (2nd ed., Lagos, Princeton & Associates Publishing Co. Ltd, 2018), 4

⁸Cap C38 Laws of the Federation of Nigeria, 2010

⁹See for example ss 183 and 191 of the Penal Code Cap. P3 Laws of the Federation of Nigeria, 2010 (89 Law of Northern Nigeria, 1963)

¹⁰No 58 of 1988 Cap F10 LFN 2004

¹¹Livinus Ifeatu Nwokike, *Sustainable Strategies for Waste Management in Nigeria. A Legal Appraisal* being a dissertation for the award of PhD in Law, Faculty of Law, Nnamdi Azikiwe University, Awka, Nigeria (2021),p.9

¹²B A Garner, *Black's Law Dictionary*, (11th edn. United States of America, Thomson Reuters, 2019) 1749

¹³Liu Shijie in *Bioprocess Engineering* (2nd edn, 2017) available online at <https://www.sciencedirect.com/topics/engineering/sustainable-development> accessed 4 January, 2022

Sustainability refers to processes, objects or matter. Sustainability is incompatible with monotonous increase or decrease of amounts of matter. Sustainability exists between the competing forces of increases and decreases. The monotonous increase of the amount of one matter leads to the exhaustion of the limited surrounds containing the matter, or the depletion of the source that provides the increase of the matter, while a monotonous decrease of the amount of a matter leads to the essential exhaustion of the matter. In bioprocesses, sustainability is compatible with steady state.¹⁴

It is best known as meaning – “what impact does this new development have on the capability of the planet to continue in existence?”¹⁵ A dictionary definition is “The quality of not being harmful to the environment or depleting natural resources and thereby supporting long term ecological balance.” However, when considering the process development, this definition should be expanded to include all areas that might cause the commercial facility to have less than the projected lifetime and return on investments. As the project is developed, process sustainability must include evaluation of the following as well as environmental consideration, to wit: long term changes in existing technology; long term availability of the feeds and catalysts, long term cost and availability of utilities; long term waste and by products disposition and long term operating and maintainability of the process facilities.¹⁶

The widely accepted definition of sustainable development is that used in the Brundtland Report. Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs. Although this is a vague statement open to interpretation, it has proved durable and provides a goal to which many people aspire, though it provides no guidance on how to get there or how to assess progress towards sustainable development.¹⁷ The term “sustainable development” has been defined as: development that meets the needs and aspirations of the current generations without compromising the ability to meet those of future generation.¹⁸ While the definition may be considered as amounting to some of form of generalization, there is need to contextualize it in order to expose the principles internalized therein. Essentially, the exploitation, management and use of nature’s resources in a rational, practical, coherent and comprehensive manner in a way that minimizes contradiction and duplication while enhancing cooperation and at all levels

¹⁴(n13)

¹⁵See Joe M Bonem in Chemical Scale Up, 2018 available online at <https://www.sciencedirect.com/topics/engineering/sustainable-development> accessed on 4th January, 2022

¹⁶(n15)

¹⁷See W J Rankin in Treaties on process metallurgy: Industrial Processes, 2014, *Ibid*

¹⁸K Saba Abdul Rasheed, “After Rio what Next” in Environmental Law and sustainable Development in Nigeira. M Agomo and O Adewale (ed., Lagos: NIALS and British Council, 1994)

constitute the externalization of the concept of sustainable development.¹⁹ Nigeria is committed to a national policy on the environment that ensures sustainable development based on proper management of her natural resources in a manner which meets the needs of the present and future generations. This requires balancing her human needs against the potential that the environment has for meeting them.²⁰ The Nigerian policy which identifies the correlation between the health and welfare of all Nigerian and the urgent transition to sustainable development attempts to provide the concepts and strategies that will lead to a procedures and other concrete actions required for launching Nigeria into an era of social justice, self-reliance and resource development that are environmentally friendly.²¹ The period between 1989, when the Nigeria policy was formulated and today has marked a period of intensive legal, administrative and to some extent judicial and legislative actions against man's activities that are deleterious to the environment. Thus, the judges of Nigeria superior courts have given decisions giving Nigerians the rights to seek redress against their individual and communities environmental rights, to the extent that issues of locus standi is no longer a threat to environmental rights. Again, their legislators at the Federal level have enacted and amended some laws that were outdated; thereby encouraging sustainable development. The problems associated sustainable development in the 1994 Federal Environmental Protection Agency (FEPA) has been taken care of in the recent 2007 National Environmental Standards and Regulations Enforcement Agency (Establishment) Act and other Acts. The recent Executive Order 009 now being streamlined by our National Legislatures for open defecation free (ODF) is encouraging. If implemented will encourage Nigerian health standard thereby positioning Nigeria like United States of America and India that have achieved Open defecation free (ODF).

Thus in *Centre for Oil Pollution Watch v. Nigerian National Petroleum Corporation per Justice C CNweze*,²² it was held that: In simple term, therefore, this narrow and rigid conception of locus standi means that it is only a person who have suffered a specific legal injury by reason of actual or threatened violation of his legal rights or legally protected interest who can bring an action for judicial redress. In effect, this rule with regard to locus standi thus postulates a right – duty pattern which is commonly to be found in private law litigation. However, the above conception of law has changed especially in Environmental claims and issues. Thus, it would in my view be a grave lacuna in our system of public law if a pressure group like the federation or even a

¹⁹L Atsegbua, et al, op.cit at 69

²⁰E D A Aina and N O Adedipe ed. *The making of the Nigerian Environmental Policy* (Ibadan: University Press, 1991) 313- 329 for a full text of the Federal Republic of Nigeria National Policy on the Environment, 1989

²¹(n20)

²²Suit No. SC 319/2013 delivered on 20th July, 2018

single public spirited tax payer were prevented by outdated technical rules of locus standi from bringing the matter to the attention of the court to vindicate the rule of law and get the unlawful conduct stopped. It is not in my view, a sufficient answer to say that judicial review of the actions of officers or departments of central government is unnecessary because they carry out their functions. They are accountable to parliament for what they do so far as regards efficiency and policy, and that parliament is the only judge they are responsible to account of justice for the lawfulness of what they do and of that the court is the only judge.²³ The decision demonstrates judicial activism from Nigeria Supreme Court against acts detrimental to Nigerian environment, hence sustainable development.

The Concept of Environment

In its most general sense environment refers to Nigerian surroundings. It should be understood not just to mean only land, air and water, but also the built, local and international environment and the condition of the local neighborhood. Environment is also the natural world in which living things dwell and grow. The physical conditions of a particular place where a living person or thing exists.²⁴ The environment also means something more specific and refers to the conservation of natural habits and ecology.²⁵ To some still,²⁶ the environment is the place of human, plant and animal existence. It is where we live and develop. This includes the air, land, water, vegetation, our surroundings, and the entire ecosystem.

Environment according to Hornby and Cowie means, “The natural condition (air, land, and water) in which Nigerians live.”²⁷ It is a synonym for the “surrounding.” Chambers 21st Century Dictionary defines the environment as “the surrounding or condition within which something or someone exists. It is the combination of external conditions that surround and influence living organisms.”²⁸ The New International Webster Encyclopedic Dictionary holds that the environment is “the aggregate of all external and internal conditions affecting the existence, growth and welfare of organisms, one’s surrounding or external circumstance collectively.”²⁹

²³(n22)

²⁴ Oxford Advanced Learner’s Dictionary, *op.cit.*

²⁵ S Wolf et al, *Principles of Environmental Law* (London: 3rd Ed Cavendish Publishing Ltd, 2002), 5

²⁶ L M Ibeh, ‘Problems of Environmental Pollution Victims in their Quest for Compensation in Nigeria Oil Industry in Nigeria’ *Environmental Law Review op cit*, 54

²⁷ A S Hornby, Oxford Advanced Learner’s Dictionary, *op.cit.*, 403

²⁸ Main Robinson (ed) Chambers 21st Century Dictionary, (Revised Edition: Allied Publishers, 2003), 440

²⁹ The New International Webster Encyclopedic Dictionary of the English Language (Columbia: Trident Press International, 2003), 326

Black's Law Dictionary on its part, defines the environment as "the totality of physical, economic, cultural, aesthetic and social circumstance and factors which surround and affect the desirability and value of property and which also affect the quality of people's lives."³⁰

"The environment consists of all or any of the following media namely, the air, water and land, the medium of air includes the air within buildings and the air within other natural or man-made structure above or below ground."³¹ In Nigeria, the Constitution³² defines Environment as:

- (a) "land, water and air, including all other layers of the atmosphere;
- (b) all human, animals, plants and all living organisms living therein;
- (c) the inter-relationship that exists in paragraph (a) and (b) above."³³

It has also been defined by the Supreme Court of Nigeria in the popular case of *Attorney-General of Lagos State v the Attorney General of the Federation & Others*,³⁴ as follows, "environment connotes the natural conditions, for example, land, air, and water in which people, animals and plants live."

From the above different definitions of the Environment, it is clear that a broad perception of the environment is generally more accepted than the narrow view expressed by Uchegbu³⁵ who views the environment simply as a "product or creature of nature" and nothing more.

Environment and Sustainable Development

In our natural habitat, a lot of creatures and crops of diverse flavors surround us: the oil palm, the cocoa tress, Melina trees, Iroko trees, mahogany trees, mangoes, guava, oranges and beautiful grape trees. There is also the olive, the pomegranate, trellised and untrellised date palms, from the fruit of the palm and the vine; we get wholesome drink and food. The bees meticulously build its cells on hills and on trees. The spider carefully knit their network of webs on trees. The weaverbird does its art unperturbed by any other creature. Our huts, tents, and houses give us shelter, while we drink from the pools of water in the rivers, streams and network of pipelines! In the day the sun brightens our day, while the moon and the stars smile at us in the night. All these and

³⁰ HC Black's Law Dictionary *op.cit*, 479

³¹ Section 1(2) of the United Kingdom Environmental Protection Act (EPA) 1990

³² Constitution of Federal Republic of Nigeria, 1999

³³Section 20 of the Constitution of Federal Republic of Nigeria, 1999 (as Amended)

³⁴(2003) 5 S.C. (pt 1) 24

³⁵A Uchegbu, "The Legal Regulation of Environmental Protection in Nigeria", JAPPLP, Vol 8, 89, 1997 & 1998, 58.

every other that surround man form what is called 'the environment'³⁶ in its natural state.

Although the environment³⁷ is as old as nature and therefore as old as the world, the policing of the environment *qua* surrounding had a comparatively late beginning in the world. This is because the environment in its genesis and pre-creation voidance never attracted the law as an instrument of social control. However, with time, the environment, by incessant global technological and economic advancement, attracted human attention and therefore human interaction. While the exact time the environment received human attention is difficult to know, it is convenient to pick the contemporary history from the initiative of the United Nations Organisation, which was established in 1948. By the Geneva Convention of 1949, the organization recognised and acknowledged the right to environment in the context of human survival.³⁸

In 1977, the world body, by an additional protocol formulated new principles aimed at protecting and improving the environment. The United Nations idea focused essentially or specifically on warfare in the realm of international law, with the main purpose of promoting international comity and amity. With the United Nations opening the way, sovereign nations followed. Nigeria, as a member of the United Nations, was not left out.

Environmental objective. Section 20 of the 1999 Constitution provides that "the state shall protect and improve the environment and safeguard the water, air and land, forest and wild life of Nigeria". The following definitions are deducible from the intent and purposes of section 20 of the 1999 Constitution of the Federal Republic of Nigeria and allied sources. The "environment" means-

- (a) the water, air and land,
- (b) forest and wildlife,
- (c) all layers of the atmosphere,

³⁶ A Omaka,(n7)

³⁷ Black's Law Dictionary defines environment as - the totality of physical, economic, cultural, aesthetic and social circumstances and factors which surround and affect the desirability and value of property, and which also affect the *quality* of people's lives. The surrounding conditions, influences or forces which influence or modify". H C Black, Black's Law Dictionary St. Paul Minn. West publishing Co. (1979), p.479. For statutory definition of the word, see s. 38 of the F 10 LFN 2004 and s. 63(1) of the Environmental Impact Assessment Decree No. 86 of 1992, now Act. Cap E12, LFN, 2010.

³⁸See N Singh, "Right to Environment and Sustainable Development as a Principle of International Law", In E G Bello and B A Ajibola (ed.), *Essays in Honour of Judge Teslim Olawale Ellas* (volume 2), Martinus Nijhoff Publishers (1992). 182. cited from the text of the paper presented by Niki Tobi. J.C.A(as he then was) at the workshop and Training on "The role of government policy and decision makers in environmental management" organised by Afrique Environmental Development and Education (AEDE) in collaboration with the Government of Delta State at Asaba, Nigeria. Tuesday 23 to Thursday 25 August, 2000.

- (d) all organic and in-organic matter and living organisms, and
- (e) the interacting natural systems that include components referred to in paragraphs (a) to (d).³⁹

The word "environment" means the air, water and land, forest and wildlife (of Nigeria). Rau and Wooten⁴⁰ gave a broader definition of our subject. According to them, the word environment is "the whole complex of physical, social, cultural, economic and aesthetic factors which affects individuals and communities and ultimately, determines their form, character relationship and survival". Rau and Wooten went further to categorise the dimension of the environment into four:

- (a) The physical environment (natural and constructed), which includes land climate, vegetation, wildlife, the surrounding land uses and the critical character of an area, imposture/public services, air, noise and water pollutions.
- (b) The social environment, which includes community facilities, services, and the character of community facilities and services.
- (c) The aesthetic environment-scenic area, vistas, views including architectural character of findings.
- (d) The economic environment, which includes employment, land ownership pattern, and land, values.

In his own treatise Professor Eugene Arene⁴¹ adopted the concept of environment as defined by Black's Law Dictionary.⁴² He looks at the environment as the totality of physical, economic, cultural, aesthetic and social circumstances and factors which surround and affect the quality of people's lives; the surrounding conditions, influences or forces, which influence or modify. This definition was quoted with approval and adopted in the Supreme Court case of Attorney General of Lagos State v. Attorney General of the Federation of Nigeria and 35 ors.⁴³

The Legal Framework for 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

³⁹See s. 38 FEPA 2014 (sic) and the Harmful Wastes Special (Criminal Provisions, etc.) Act cap H1 Laws of the Federation of Nigeria 2010; s. 63 (1) EIA Act, *Act, Cap E12, LFN*, 2010. and other federal and state environmental legislations for a statutory definition of the word "environment". See also *Handbook on Environmental Law for New Brunswick*, 1999-2000. Canada, chapter 2.1.

⁴⁰ G John Rau & C David Wooten (ed.) *Environmental Impact Analysis Handbook*, McGraw Hill Publishers (1980), p.5-8.

⁴¹See Eugene Arene: *An Assessment of Policies for A Healthier Environment*. Kuru. November 1991

⁴²Sixth edition p. 534

⁴³(2003) FLWR part 168 909 at 946

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 damage of source.

An identification of the various areas from which the greatest problems of non-sustainable development emanate is a sine qua non for environmental management. Some of the problem areas identified are.⁴⁴

- i. Urbanization, human settlements and their environmental problems.
- ii. Health Care
- iii. Mineral and other Resources Exploitation.
- iv. Natural environmental problems: desertification and coastal erosion.
- v. Agro-ecosystems.
- vi. Oil Pollutions.
- vii. Pollution of inland and underground waters, and industrialization.

The activities listed above have invariably created difficulties affecting land use and natural resources management, pollution of air, water, soil, and foods, as well as micro-economic problems of waste management. Several laws have been promulgated in Nigeria in recent years with a view to imbibing the principles of sustainability. Good examples are: The Environmental Impact Assessment Act 1992, The National Environmental Standard and Regulation (enforcement) Agency Act, 2007 and the various Regulations made there under. The various state environmental sanitation laws are equally apposite. The Forestry laws of states with emphasis on re-planting our depleting rain forests, have elevated economic gains arising from exploitation over and above the need for sustainable development in this regard. Indeed, a lot more still needs to be done. While commenting on the transition from the erstwhile conservation legislation and the expected changes to sustainability in environmental law making, Bob Munro⁴⁵ said:

Such changes will require a transition period of... A decade or more... It must be a pragmatic and managed process of change in which the exploitation of resources, the direction of investment, the thrust of technological development and the

⁴⁴ Se N O Adedipe, "A Workable Structure for the Proposed Federal Environmental Protection Agency" in E O A Aina, & N O Adedipe, ed., *The Making of the Nigerian Environmental Policy* (Ibadan: University Press, 1999), p. 172 at 132

⁴⁵B Munro, "Making the Transition to Sustainable Development: The Seychelles Initiative" in *Environmental Consciousness for Nigerian National Development*, E O Aina & N O Adedipe, ed., (Ibadan University Press, 1992) p. 85

policies of major economic and sectoral agencies are re-oriented and reconciled to enhance both the present and future capacity to meet human needs.

Though the transition may be difficult in Nigeria, given our penchant for state expropriation of natural resources for exploitation at all cost, the massive destruction in the wake of such exploitation in different parts of the country, show that an impalpable lip service only, is paid to the need for the application of the sustainability principle.

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.⁴⁶

Montreal protocol, 1987: The Montreal protocol addresses the problem of depletion of the ozone layer by man-made 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 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.

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 on all aspects of sustainable development including its social and economic dimension which includes the conversation 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.⁴⁷

⁴⁶J C Nwafor, *Environmental Impact Assessment for Sustainable Development: The Nigeria Perspective* (EDPCA Publishers, 1 ed 2006) 433

⁴⁷(n 46)

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).⁴⁸

United Nations Framework Convention on Climate Change (UNFCCC) 1994: The objectives of this convention is the stabilization of greenhouse gas (GHG) concentration 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.⁴⁹

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.⁵⁰

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 (IPF), 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.⁵¹

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 called at Rio on countries to establish their own sustainable development strategies; by publishing the first U.K strategy for sustainable development in 1994.⁵² 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

⁴⁸(n 47)

⁴⁹(n48)

⁵⁰ (n49)

⁵¹(n50)

⁵²(n51)

economic, social and environmental policy in a more fundamental way. The new strategy was titled "A Better quality of life."⁵³ The creation of this strategy and formal annual assessments of progress made in implementing it, kept sustainable development on the Agenda.⁵⁴ The annual assessments show where progress is being made and where it is lacking. The U.K primary legislation⁵⁵ meant for the Protection of the environment spelled 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 2004⁵⁶ imposes on planning officials a duty to exercise their functions with the objective of contributing to the achievement of sustainable development. 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.⁵⁷

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.⁵⁸

Nigeria

Over the years, Nigeria has enacted laws with respect to her environment, incorporating the principle of sustainability. Good examples are: the Environment Impact Assessment Act 1992, the National Environmental Standards and Regulations (Enforcement) Agency Act, 2007. The agency have 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.⁵⁹ Also enacted is the Forestry Laws of states in Nigeria which places emphasis on re-planting our depleting rain forests.⁶⁰ Mineral Oil (Safety) Regulations 1963 Act, The Harmful Waste Criminal Provisions) Act No 42 of 1988.

In the Nigeria situation, a period of change of 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.

⁵³(n52)

⁵⁴(n53)

⁵⁵Environmental Act, 1995

⁵⁶<http://en.Wikipedia.org/wiki/sustainabledevelopment> (accessed 5/3/2010)

⁵⁷(n56)

⁵⁸(n57)

⁵⁹National Environmental Standards and Regulations Enforcement, Agency Act, 2007, section 2

⁶⁰(n59)

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 development

Intergenerational Equity: Fulfils 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 receive a natural and cultural legacy in trust from previous generations and holds it in trust for future generations. The UK government has interpreted this in terms of concept of ‘stewardship’ of the world.⁶¹

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.⁶²

Equitable Use of Natural Resources: The tradition notion of equity as the right of sovereign states to exploit their resources has been displaced by the emerging concept of the use of resources by one state taking into account the needs of other states. This can be seen from the agreement of developed nations that finance for environmental protection must be provided by them to developing nations. But the notion is yet to fully emerge.

Integration of Environmental Protection and Economic Development: 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.

Some Principles of Stockholm and Rio Declarations

Principle 1

Man has the fundamental right to freedom, equality and adequate conditions 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 the present and future generations. In this respect, policies promoting or perpetuating apartheid, racial

⁶¹The Common Inheritance. Cm 1200(1990)

⁶²Sands, Principles of International Environmental Law (1995)

segregation, discrimination, colonial and other forms of oppression and foreign domination stand condemned and must be eliminated.

Principle 2

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

Principle 3

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

Principle 4

Man has a special responsibility to safeguard and wisely manage the heritage of wildlife and its habitat which are now gravely imperiled by a combination of adverse factors. Nature conservation including wildlife 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 benefits from such employment are shared by all mankind.

Principle 6

The discharge of toxic substances or of other substances and the release of heat in such quantities or concentrations as to exceed the capacity of the environment to render them harmless, must be halted in order to ensure that serious or irreversible damage is not inflicted upon ecosystems. The just struggle of the peoples of all countries against pollution should be supported.

Principle 7

States shall take all possible steps to prevent pollution of the seas by substances that are liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea.

Principle 8

Economic and social development is essential for ensuring a favorable living and working environment for man and for creating conditions on earth that are necessary for the improvement of the quality of life.

Principle 21

States have, in accordance with the 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 activities within their jurisdiction or does not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.⁶³²⁰⁴

The United Nations Environment program (U.N.E.P) also held another session in 1982 to rekindle the spirit of Stockholm. In 1987, the report of the World Commission on Environment and Development (WCED), 'Our Common Future' (known as the Brundtland Report) was published. The Report recommended that relevant regional and global meetings should be held. The recommendation was said to have been relayed to the United Nations (U.N). General Assembly and by its resolution 44/223 of 22 December, 1989, the U.N. decided to hold the United Nation's Conference on Environment and Development in June 1992 in Brazil. This conference was said to be an international forum where strategies to fully integrate the relationship between the environment and development into every of economic life and behavior would be agreed upon. As a result, the two-week United Nations Conference on Environment and Development (UNCED) opened in Rio de Janeiro on the 3rd of June, 1992.

Before the conference in Rio de Janeiro Brazil, environmental protection was seen as an added cost to development by most developing countries including Nigeria. The popular concept among them was that environmental protection and management had to wait until 'appreciable' economic development occurred.

Agreeably, one of the achievements of the Rio Conference was to place environmental issues high on the agenda of the international community. Some of the International environmental protection principles enunciated by the *Rio de Janeiro* Declaration are as follows;

Principle 1

Human beings are at the center of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature.

Principle 2

States have, in accordance with the Charter of the United Nations and the principles of International Law, the sovereign right to exploit their own resources pursuant to their own environmental and development policies and the responsibility to ensure that

⁶³ See Principle 21

activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.

Principle 3

The right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations.

Principle 4

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.

Principle 5

All States and all people shall co-operate in the essential task of eradicating poverty as an indispensable requirement for sustainable development, in order to decrease the disparities in standards of living and better meet the needs of the majority of the people of the world.

Principle 6

The special situation and needs of developing countries, particularly the least developed and those most environmentally vulnerable shall be given special priority. International actions in the field of environment and development should also address the interests and needs of all countries.

Principle 7

States shall co-operate in a spirit of global partnership to conserve, protect and restore the health and integrity of the earth's ecosystem. In view of the different contributions to global environmental degradation, states have common but differentiated responsibilities. The developed countries acknowledge the responsibilities that they bear in the international pursuit of sustainable development in view of the pressures their societies place on the global environment and of the technologies and financial resources they command.

Principle 8

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.

Principle 9

States should co-operate to strengthen endogenous capacity building for sustainable development by improving scientific understanding through exchanges of scientific and technological knowledge and transfer of technologies: including new and innovative technologies.

Principle 10

Environmental issues are best handled with the participation of all concerned citizens at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.

Principle 11

States shall enact effective environmental legislations. Environmental standards, management objectives and priorities should reflect the environmental and developmental contexts to which they apply. Standards applied by some countries may be inappropriate and of unwarranted economic and social cost to other countries, in particular, developed countries.

Principle 12

States should co-operate to promote a supportive and open International economic system that would lead to economic growth and sustainable development in all countries to better address the problems of environmental degradation. Trade policy measures for environmental purposes should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on International trade. Unilateral approach to deal with environmental challenges outside the jurisdiction of the importing country should be avoided. Environmental measures addressing trans-boundary or global environmental problems should as far as possible be based on an international consensus.

Principle 13

States shall develop national laws regarding liability and compensation for the victims of pollution and other environmental damage. States shall also co-operate in an expeditious and more determined manner to develop further international laws regarding liability and compensation for adverse effects of environmental damages caused by activities within their jurisdiction or control to areas beyond their jurisdiction.

Principle 14

States should effectively co-operate to discourage or prevent the relocation and transfer to other states of any activities and substances that cause severe environmental degradation or are found to be harmful to human health.

Principle 22

Indigenous people and their communities and other local communities have a vital role in environmental management and development because of their knowledge and traditional practices. States should recognize and duly support their identity, culture and interests and enable their effective participation in the achievement of sustainable development.

Principle 23

The Environment and Natural Resources of people under oppression, domination and occupation shall be protected.

Principle 24

Warfare is inherently destructive of sustainable development. State shall therefore respect international law by providing protection for the environment in times of armed conflict and co-operate in its further development, as necessary.

International environmental protection agreement comes in different shades, it is either a non binding unilateral declaration of intent or jointly proposed declaration of principles or a firm agreement which creates legal obligation which may attract sanctions where there is no performance of the specific obligation. The international environmental agreement consist primarily of treaties, charters, conventions, accords, protocols or some other term as a nation could obligate itself in an agreement with an organization. The international agreement on the environment employs a wide range of regulatory arrangement for structuring, monitoring and protecting the environment such agreement should concerns issues such as ocean pollution, endangered species protection, hazardous waste among others.⁶⁴²⁰⁵

Some Principles of International Environmental Protection

Although one cannot authoritatively say how these principles came to be, the fact remains that a number of principles have emerged in the globe to secure environmental protection *albeit* at their developmental stages. These principles include the following:

- a. the "no harm" rule;
- b. the principle of state co-operation;
- c. the "precautionary principle";
- d. the "polluter pays" principle, and
- e. the principle of "common but differential responsibility".

Conclusion

We have explained how nations of the world including Nigeria were made to wake up from statutory and legislative slumbers on their attitudes to environmental issues. These

⁶⁴(n 63)

attitudes made them to pay lip services on environment nay sustainable development. The consequences which resulted in health related problems, environmental degradation, climate change, ozone layer depletion, ecocide, loss of biodiversity and above all, death of human beings. However, with the United Nations' actions, policies, programmes; which have led to certain conferences and declarations, reports; which Brundtland Report is paramount have made these nations to be conscious of their environment and international environment. These result in enacting rules and laws at both national, regional and international arena; resulting in curbing certain man-made acts against the natural environment. Consequently, nations started to exploit their resources pursuant to their environmental policies and jurisdictions without jeopardizing that of other nations, hence, sustainable development.

Recommendations

There is need to sustain the spirit of United Nations in the Brundtland report which rekindled the consciousness of sustainable development by nations of the world. The activities of man in environment need to be strictly monitored for the environment to be maintained in its natural state. Laws at national, regional and international arena need to be reviewed in line with the global trends in the society. We should in that spirit continue to think sustainable development, do sustainable development and believe in sustainable development for the benefit of the present and future generations.