

A LEGAL APPRAISAL OF THE LEGAL BARRIERS TO THE REALIZATION OF THE RIGHT TO DEVELOPMENT IN NIGERIA

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Abstract

The right to development (RTD) has attained recognition at the international level as a fundamental human right with economic, social, cultural, and political dimensions. In Nigeria, although discourse increasingly frames development as a right rather than a privilege, the legal enforcement and practical realization of this right remain fraught with obstacles. The United Nations has affirmed that the violation of Economic, Social and Cultural Rights (ESCRs) constitutes a violation of the right to development. However, the persistent challenges in guaranteeing ESCRs in Nigeria continue to impede the effective realization of development both domestically and within the broader international framework. Achieving development in Nigeria thus necessitates a clear understanding of the normative content of the RTD and a strategic approach to addressing the structural and legal impediments that hinder its fulfillment. This study therefore seeks to examine the nature and scope of the right to development, while interrogating the specific challenges that obstruct its implementation in Nigeria. It situates the RTD within the broader context of international human rights law, underscoring the imperative for the Nigerian State to meet its obligations in this regard as part of the collective pursuit of human rights objectives. The paper highlights the plight of Nigerians burdened by poverty, unemployment, ill-health, illiteracy, and socio-economic stagnation, and interrogates how corruption, weak institutions, lack of resources, poor governance, internal conflicts, and inadequate enforcement mechanisms inhibit the full realization of development. It concludes that the objectives of sustainable development in Nigeria cannot be achieved without deliberate efforts to reduce corruption, which stands as a critical barrier and whose elimination may serve as a practical catalyst for the attainment of meaningful development.

Keywords: Right to Development, Sustainable Development and Legal Barriers in Nigeria.

1. Introduction

Human rights (HR) are inherent entitlements which accrue to all individuals universally, at all times and in all places, by reason of their humanity. Although the Universal Declaration of Human Rights (UDHR) is not legally binding, Article 1 affirms that all human beings are born free and equal in dignity and rights. This foundational principle presumes that every individual is entitled to the enjoyment of fundamental rights that are universal in character and application.

International human rights law lays down obligations of governments to act in certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals or groups¹. An example of such obligation is the right to development, which should be enjoyed by all citizens so as to bring about progress and sustainability in the society. This promotes the enjoyment of other human rights, which are protected both nationally and

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¹ D Nurmayani, "What are Human Rights?" (2013) <gloablethicsnetwork.org> Accessed 20 April, 2025.

internationally². Development may be conceptualized as a multidimensional economic, social, cultural, and political process directed towards the continuous enhancement of the well-being of the entire population as well as of individual members of society. It rests on the premise of active, free, and meaningful participation of all persons, alongside the equitable distribution of the benefits arising from such progress. In essence, development entails the creation of enabling conditions that allow individuals to realize their full potential and to live productive and creative lives. Central to this conception are the principles of participation, gender equality, ethnic inclusiveness, and the maintenance of peace as foundational elements guiding the developmental process. Development is a continuous advancement in the economic, social, cultural and environmental wellbeing of members of a particular community or country. It is a result of a coordinated efforts put together by the machinery of a state in order to ensure that its citizens are not disadvantaged or deprived of such necessary basic needs of life. It is the capacity expansion, which permits effective participation by the members of the community. Such development must, however, be sustainable.

The Brundtland Report of the United Nations Commission on Environment and Development conceptualizes sustainable development as a model of progress that satisfies the needs of the present generation without undermining the capacity of future generations to meet their own needs. This approach to development underscores the imperative of intergenerational equity, ensuring that the benefits of development extend beyond the present to secure the future. It entails the eradication of poverty, the improvement of living standards within communities, and the equitable allocation of resources. Sustainable development thus requires not only the preservation of adequate resources for humanity as a whole but also their fair distribution to maximize benefits across the widest possible segment of society.

At the World Summit on Sustainable Development (WSSD), sustainable development was expressed as having three pillars, namely: economic development, social development, and environmental protection³. The economic development pillar ensures that economic growth in countries maintain a healthy balance with the ecosystem, which should be evident in the fair distribution and efficient allocation of resources. Also, given that social disruptions threaten the lives and well-being of members of a community, human inequality, conflict, social injustice and poverty must be addressed to promote social equity, thus leading to development that is sustainable. Furthermore, the limited resources the environment has means that the environment must be protected from corporate exploitation and neglect. Thus, the environmental protection pillar supports initiatives like renewable energy, reducing fossil fuel consumption and emissions, sustainable agriculture and fishing, organic farming, tree planting and reducing

² The African Charter on Human and People's rights Cap A.9 LFN 2004 in Article 22 provides that States shall have the duty, individually or collectively, to ensure the exercise of the right to development. See M.T Ladan and Y Dankofa "Human Rights Security and Development: A Call for Effective Enforcement in Nigeria" (2012) 3 Hum Right Rev 100;

³ Paragraph 5 of the Declaration of Sustainable Development which was adopted at the Summit affirmed the will of participating governments to strengthen these pillars at the local, national, regional and global levels. See Elli Louka, *International Environmental law: Fairness, Effectiveness and World Order* (Cambridge University Press, UK. 2006) 52..

deforestation, recycling, and waste management⁴. This article examines the RTD concept in view of the dire need for the realization of state obligations in this regard and fulfillment of the goals of human rights generally *viz-a-viz* the concept of right to development in international law.

2. The Nature of the Right to Development

The Right to Development (RTD) is situated within the broader international human rights framework, as it is reflected in the foundational provisions of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Beyond these core instruments, several other international treaties embody development-related dimensions. These include the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Convention on the Prevention and Punishment of the Crime of Genocide (CPPCG), the International Convention on the Suppression and Punishment of the Crime of Apartheid (SPCA), and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, among others. Collectively, these instruments reinforce the recognition of development as an integral component of the international human rights regime.

i) Right Holder

A person can be said to have a right when he is entitled to claim respect and adherence to a specific thing, with the other person having a duty to respect and fulfill that right⁵. The United Nations Declaration on the Rights to Development (UNDRD)⁶ identifies a human being at the center of its framework and states that “the human person is the central subject of development and should be the active participant and beneficiary of the right to development⁷”. Individuals are the bearers of rights, who can make claims against the state for the promotion, protection, and fulfillment of the obligations owed by the duty holder⁸. States also have the right to formulate national development policies which will benefit individuals in the society.⁹

ii) Duty-Holders

The fulfillment of the right to development entails the participation of multiple actors. At the individual level, a person bears responsibilities both as a solitary participant and collectively as a member of a community, to actively “promote and safeguard a political, social, and economic framework conducive to development”.¹⁰ Human rights documents such as the International

⁴ Yada Drop LLC, “Three Pillars of Sustainability.” (2014) <<http://yadadrop.com/about/sustainability>> accessed 20 March 2014

⁵ A. Sitta, “The Role of the Right to Development in the Human Rights Framework for Development” <www.capabilityapproach.com/pubs/5_1_sitta.pdf> accessed 16 January 2025

⁶ Universal Declaration on the Rights to Development <www.unicef.org/malaysia/1959-Declaration-of-the-Rights-of-the-Child.pdf> accessed 16 January 2025

⁷ Article 2.1 UNDRD; see also, Irene Hadiprayitno, “Poverty, the Right to Development and International Human Rights Law” (2004) <<http://dx.doi.org/10.2139/ssrn.60232>> accessed 17 December 2024.

⁸ Alessandro Sitta, “The Role of the Right to Development in the Human Rights Framework for Development” <www.capabilityapproach.com/pubs/5_1_sitta.pdf> accessed 16 January 2025

⁹ Article 2(3), UNDRD.

¹⁰ Article 2(3), UNDRD.

Covenant on Economic, Social and Cultural Rights and International Covenant on Civil and Political Rights also places duties on individuals.¹¹ States, however, have the primary responsibility at both national and international levels, to create “national and international conditions favorable to the realization of the right to development”.¹² Non-governmental organizations (NGOs) are also important actors in achieving objectives relating to development of communities.¹³ A General Assembly resolution, in explaining the importance of NGOs, stated that NGOs must contribute to the effective implementation of the UNDRD through effective developmental policies and support.¹⁴ Many of them carry out different types of developmental programmes which aim to uplift members of the communities in various areas of their lives. For example, environment, health and sanitation awareness, promotion of child’s rights law, promotion of sexuality and reproductive health education and development of rural infrastructure. General Assembly Resolution. 1999. 144, U.N. GAOR 3d Comm., 53d Sess., UN Doc. A/RES/53/144 (discussing the expansion of human rights responsibilities of individuals and institutions).

3. Defining Features of the Right to Development

The right to development means that development is, itself, a human right and thus it prescribes the manner by which development can be viewed from the human rights perspective, together with the rules by which development can be realized like other human rights concepts¹⁵.

A rights approach to development enhances social justice, creates stronger and more equitable institutions, strengthens democracy and promotes good governance¹⁶. Article 1 of the UNDRD, in explaining the concept of the right to development, states that: The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, and contribute to, and enjoy economic, social, cultural, and political development in which all human rights and fundamental freedoms can be fully realized¹⁷.

i) Engagement

Individuals, groups and peoples should be engaged in development process and thus, have the right to make decisions collectively and to choose their own representative organizations¹⁸. They

¹¹ Article 2(1), UNDRD, Article 2(2), UNDRD

¹² See the preamble to the International Covenant on Economic, Social and Cultural Rights and International Covenant on Civil and Political Rights.

¹³ See Article 3(1-3), Article 5, Article 4, Article 6, Article 7 UNDRD, on the various duties expected from states in achieving the right to development.

¹⁴ See Article 3(1-3), Article 5, Article 4, Article 6, Article 7 UNDRD, on the various duties expected from states in achieving the right to development.

¹⁵ Irene Hadiprayitno, “Poverty, the Right to Development and International Human Rights Law” (2004) <<http://dx.doi.org/10.2139/ssrn.602321>> accessed 17 December 2024

¹⁶ Estanislao Gacitua-Mario and Andrew Norton, “Increasing Social Inclusion through Social Guarantees” in Estanislao Gacitua-Mario, Andrew Norton and Sophia V. Georgieva (eds), *Building Equality and Opportunity Through Social Guarantees: New Approaches to Public Policy and the Realization of Rights*. (The World Bank 2009) 23.

¹⁷ Article 1(1) UNDRD.

¹⁸ Paragraph 147, Global Consultation on the Realization of the Right to Development as a Human Right, U.N. Commission on Human Rights, 46th Sess., Agenda Item 8, U.N. Doc. E/CN.4/1990/9

should also be able to control those fundamental choices important to them and take part in all those mechanisms and processes that can affect them¹⁹. Vulnerable groups should not be left out and their rights and needs must also be considered. Any inequality based on sex, ethnicity, disability, religion and any other category that could affect the enjoyment of human rights should be discarded, and specific reference to national and international human rights instruments must be taken into account²⁰. The political and economic system of countries should guarantee participation so that people can be aware of their societal needs and determine their priorities among themselves²¹. Such determination will enable government come to their aid instead of total abandonment and ignorance of their plight. Whenever the government makes plans, the people concerned should be consulted through appropriate procedures. This will enable them to participate in the formulation, implementation and evaluation of those plans and program²².

ii) International Cooperation

The United Nations Charter recognizes the obligation of international cooperation, by virtue of which the international community of States and multinational organizations are expected to cooperate with States to enable them to fulfill the human rights of all individuals.²³ A State cannot act in isolation, that is, without considering the effects of its policies on other countries or without taking into account, the impact of the decisions of other countries on its own policies. The impact of the policies and practices of the developed countries on those of the developing countries, vice versa, and the response of both countries leads to international co-operation. An example of such cooperation is foreign aid whereby developed countries support developing countries that are in need of resources.²⁴

iii) Good Governance

Governance refers to the established traditions and institutional frameworks through which a state exercises authority. It encompasses the mechanisms for the selection and replacement of governments, the ability of state actors to implement effective and coherent policies, and the extent to which both citizens and the government uphold and respect the institutions designed to regulate

¹⁹ Alessandro Sitta, "The Role of the Right to Development in the Human Rights Framework for Development" <www.capabilityapproach.com/pubs/5_1_sitta.pdf> accessed 16 January 2025.

²⁰ *Ibid*.

²¹ E Gacitua-Mario and A. Norton. "Increasing Social Inclusion through Social Guarantees" in Estanislao Gacitua-Mario, Andrew Norton and Sophia V. Georgieva (eds), *Building Equality and Opportunity Through Social Guarantees: New Approaches to Public Policy and the Realization of Rights*. (The World Bank 2009) 23.

²² Tom Griffiths, "A Failure of Accountability: Indigenous Peoples, Human Rights and Development Agency Standards – A Reference Tool and Comparative Review" (2003) <www.forestpeoples.org/documents/law_hr/ip_dev_tstds_failure_accountability_dec03_eng.pdf> accessed 15 March 2025.

²³ *Ibid*

²⁴ Tom Griffiths, "A Failure of Accountability: Indigenous Peoples, Human Rights and Development Agency Standards – A Reference Tool and Comparative Review" (2003) <www.forestpeoples.org/documents/law_hr/ip_dev_tstds_failure_accountability_dec03_eng.pdf> accessed 15 March 2025.

economic and social interactions.²⁵ Good governance promotes participation of all citizens in governance and protects the fundamental human rights of the citizens. It also ensures that the rule of law is sustained and basic amenities are provided,²⁶ which is instrumental in achieving poverty reduction and sustaining an equitable pattern of growth.²⁷ Good government performance ensures that policy outputs serve a greater common good over the long term. Factors that have led to policy failures over the years in Nigeria include: ethnic diversity, foreign debt, an economy dependent on natural resources and a string of dictatorships²⁸.

A crucial factor influencing governmental performance is the State's economic capacity. Governments constrained by limited revenues and scarce resources frequently encounter challenges in designing and executing effective public policies. Maintaining fiscal discipline is therefore imperative, as unrestrained spending especially when driven by political self-interest or efforts to consolidate power can lead to chronic deficits that undermine economic stability and hinder national development. Consequently, governments must reconcile competing priorities within the bounds of available fiscal resources to achieve sustainable governance. Furthermore, the quality of leadership plays a pivotal role in determining state performance. Effective leaders are those who articulate a clear and coherent vision, formulate rational strategies to realize it, and garner the support of essential political stakeholders. Historical analysis indicates that transformative leadership, characterized by focus, transparency, and foresight, has often been instrumental in successfully redirecting the developmental trajectory of nations. Accountability has featured in many policies and is frequently invoked in the context of institutional reform of the UN and other international agencies.²⁹ Accountability ensures trust between the citizens and the state where services are paid for and delivered.³⁰ The government should be accountable in delivering social policy to its citizens and must be transparent in implementing those policies so as to carry people along and make meaningful contributions to their lives.

²⁵ Article 1(1) of International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights.

²⁶ E. Gacitua-Mario and A. Norton "Increasing Social Inclusion through Social Guarantees" in Estanislao Gacitua-Mario, Andrew Norton and Sophia V. Georgieva (eds), *Building Equality and Opportunity Through Social Guarantees: New Approaches to Public Policy and the Realization of Rights*. (The World Bank 2009) 34.

²⁷ C Nwekeaku, "The Rule of Law, Democracy and Good Governance in Nigeria" (2014) 2 GJPSA 26, 29.

²⁸ United Nations, "Poverty Reduction and Good Governance". Report of the Committee for Development Policy on the sixth session held on 29 March to 2 April 2004. (2005) <www.un.org/en/development/desa/policy/cdp/cdp_publications/cdpreport2004web.pdf> accessed 15 March 2025.

²⁹ For example, The United Nations Convention against Corruption, a legally binding international anti-corruption instrument created under the auspices of the United Nations Office on Drugs and Crime and entered into force on 14 December 2005 provides that to ensure accountability, government should make certain categories of information publicly available such as; employment of public official; conflict of Interest-related Information; decision-making process in Government; public Sector Finances; funding of candidatures for elected public office, among others

³⁰ S.L. Jorgensen and R. Serrano-Berthet, "Comprehensive Social Policy for Inclusive and Sustainable Globalization", in Estanislao Gacitua-Mario, Andrew Norton and Sophia V. Georgieva (eds), *Building Equality and Opportunity Through Social Guarantees: New Approaches to Public Policy and the Realization of Rights*. (The World Bank 2009) 46.

iv) Equitable Access

The human person constitutes the central subject of the right to development, which extends in its application to the wider community and the entire population. The United Nations Declaration on the Right to Development (UNDRD) affirms the principle of equality by stipulating that development policies must be directed toward enhancing the well-being of all individuals and populations. Consequently, States are under an obligation to promote and protect the rights of all citizens without distinction on the basis of race, sex, language, or religion. The right to development is universal in scope, encompassing every person, group, and gender, and therefore requires that all individuals have access to education, healthcare, and employment.

Fundamental guarantees such as the right to a fair hearing and access to justice must also be secured free from any form of discrimination. Achieving these objectives necessitates the adoption of policies and programmes designed to create equal opportunities, thereby enabling individuals to realise their potential and contribute to societal advancement. In Nigeria, for instance, the National Health Insurance Scheme (NHIS) represents an effort to reduce healthcare costs for those unable to afford them, thereby improving access to health services and promoting social inclusion. Vulnerable populations experience systemic disadvantages due to limited financial resources and restricted access to essential services. Structural social, economic, and political obstacles further hinder their capacity to actively participate in their own development and to overcome societal marginalization. In particular, pregnant women must be afforded equal employment opportunities and should not face discrimination on the basis of pregnancy. They are entitled to maternity leave and associated benefits to ensure adequate care for both themselves and their infants.

4. The Right to Development and the Divergent Interests of Industrialized and Emerging Nations

This study examines the Right to Development (RTD) within the context of the often conflicting priorities between industrialized and emerging nations. It explores how disparities in economic capacity, technological advancement, and political influence shape the interpretation and implementation of RTD, highlighting the tensions that arise when developed countries' interests in global trade, investment, and intellectual property protection conflict with the developmental aspirations and resource needs of emerging nations. Over the years, the United Nations has made efforts to identify and remove obstacles to the realization of the right to development.³¹ However, the realities in developing and underdeveloped countries are overwhelming.³² Development is curtailed by several indices, which constitute the obstacles of the Right to

³¹ This is evident in Conventions, which contain provisions protecting key groups against discrimination. See for example; Article 2, United Nations Convention on the Rights of the Child (CRC), Article 2,7,8,11,12 Convention on the Elimination of Discrimination against Women (CEDAW). International Convention on the Elimination of all Forms of Racial Discrimination, United Nations Convention on the Rights of Persons with Disabilities.

³² The Committee for Development Policy, in its 1999 report, stated that the least developed country category should include countries with a low per capita income, a low level of human resource development and a high degree of economic vulnerability. See United Nations, Poverty Reduction and Good Governance. Report of the Committee for Development Policy on the sixth session held on 29 March to 2 April 2004.(2005) <www.un.org/en/development/desa/policy/cdp/cdp_publications/cdpreport2004web.pdf> accessed 15 March 2015.

Development (RTD). Unfortunately, these obstacles affect the underdeveloped and developing countries more.

i) Insufficient Global Assistance

In developing countries, foreign aid plays a large role in realizing the right to development. In view of this, the International Conference on Financing for Development held in Monterrey, Mexico, in 2002, committed industrialized countries to be more generous with their development assistance stating that such increase will be required to achieve the MDGs.³³ Over the years, the amount of external assistance provided to developing countries has diminished. Beyond the overall reduction in aid, there are notable deficiencies in its allocation, as certain countries are prioritized over others due to factors such as political interests, the desire to maintain influence, and the aim of enhancing their international competitive position in trade and investment. Additionally, some donor state governments frequently overlook human rights consideration when negotiating aid or development assistance.

ii) Dishonesty

A dishonest activity is that which violates the ethics of society or the ethics of one's office, position, profession, or calling.³⁴ Foreign and local investors are reluctant to invest in such countries with a high level of corruption and this automatically affects the economic growth and development of such a nation.³⁵ In Nigeria, corruption is an obstacle to implementing the right to development, employment, education, health care and progress. It is also a great impediment to the Millennium Development Goals, which seeks to reduce, by half, the number of people living in extreme poverty by 2015.³⁶ This is so because the funds and resources that should be allocated for use in tangible projects that will promote the wellbeing of citizens are diverted to personal pockets. Factors affecting corruption include low civil service salaries, poor working conditions, few incentives and rewards for efficient and effective performance, poverty, lack of transparency, inadequate strategic vision, greed and weak monitoring mechanisms³⁷.

iii) Compliance to Laws and Policies

The effectiveness of laws is contingent upon their proper implementation and enforcement. As DeGroff and Cargo observe, implementation is an iterative process through which policy ideas are translated into social action, expressed in the form of program, regulations, procedures, or practices aimed at improving societal conditions. In the Nigerian context, however, numerous laws are enacted without effective

³³ Official Development Assistance, "Towards Human Resilience: Sustaining MDG Progress in an Age of Economic Uncertainty." <www.google.com/search?q=developmentassistancetodevelopingcountries&hl=en-GB> accessed 14 March 2025.

³⁴ Osita Nnamani Ogbu, "Combating Corruption in Nigeria: A Critical Appraisal of the Laws, Institutions and the Political Will" (2010) 14

³⁵ Chinelo Okekeocha. "A Case Study of Corruption and Public Accountability in Nigeria" (2013). *Dissertations, Theses and Capstone Projects*. Paper 566. <<http://digitalcommons.kennesaw.edu/cgi/viewcontent.cgi?article=1568&context=etd>> accessed 16 March 2025.

³⁶ Abiodun Elijah Obayelu "Effects of Corruption and Economic Reforms on Economic Growth and Development: Lessons from Nigeria" in African Economic Conference. (2007) <www.uneca.org/sites/default/files/page_attachments/abiodun_elijah_obayelu_o.pdf> accessed 16 March 2025.

³⁷ *Ibid*

implementation, resulting in wasted resources and efforts, while the underlying problems such laws were intended to address persist. Jega further emphasizes that for policies to achieve their intended outcomes, both their formulation and execution must be rational, sequential, and deliberative. A critical factor in Nigeria's weak legal effectiveness lies in the inefficiency of law enforcement agencies, whose primary responsibility is to ensure compliance. Their inability to perform effectively is compounded by inadequate remuneration, which diminishes motivation, and by insufficient funding and resources necessary for proper enforcement. Consequently, poor implementation and weak enforcement significantly undermine the capacity of laws and policies to bring about meaningful change.

iv) Poverty

Poverty affects development negatively in several ways. It affects an individual's access to basic necessities of life such as housing, food and healthcare. It also propels people to engage in different forms of crime such as human trafficking, robbery, kidnapping, all of which negatively affects the development of countries. More funds will thus have to be injected into the criminal justice system instead of being spent on other important things. It causes educational disadvantage,³⁸ as it pulls children out of school and into the streets with the aim of earning a living to supplement their parent's income. Consequently, children will be susceptible to molestation, accidents and bad habits. Since education moulds a person from early years, it serves as a very important phase for obtaining information, which prepares them to become intelligent, productive and selfless leaders in the future.

v) Lack of Respect for All Human Rights

In order to achieve development, States must put the human rights of its This relates to situations where funds are unavailable for the purchase of school uniforms, books, various school levies and fees, examination fees, and so on, and, as a result, children drop out of school. As such, they are denied the right to education citizens into consideration without any distinction as to race, sex, language or religion and such rights must be indivisible and interdependent.³⁹ Thus, a certain category of rights should not be more important than others. According to Quane,⁴⁰ civil and political rights cannot be more important than economic, social and cultural rights as the effective implementation of one category affects the effective implementation of the other. The Vienna Declaration also provides that, "... the international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis".⁴¹ The respect of human rights by the government is dependent on both their ability and their willingness to respect it.

³⁸ A. Carl Levan (n 45) 129.

³⁹ A. Carl Levan (n 45) 129

⁴⁰ Article 6(1) and 6(2) UNDRD

⁴¹ H. Quane, "A Further Dimension to the Interdependence and Indivisibility of Human Rights?: Recent Developments Concerning the Rights of Indigenous Peoples" (2012) 25 *HHRJ* 49.

Ability, which refers to sufficient government resources, is important, without which the government cannot implement the costly legal systems necessary to implement health, education and workforce policies. Governments with sufficient resources may however lack the will to implement human rights institutions and policies if it does not see it as a priority.⁴² The failure to protect human rights constitutes an obstacle to development.⁴³ Government should protect people from human rights violations such as apartheid, racism and racial discrimination, colonialism, aggression, foreign interference and threats of war.⁴⁴

vi) Lack of Institutional Capacity

Globally, institutions are often saddled with the responsibility of fostering development. However, strengthening institutional capacity remains a major challenge. This is largely due to the relationship and link that exist between the organizations and their host communities. Institutions tasked with providing services and products to their constituents across a wide spectrum of sectors often face daunting challenges as they struggle to perform in developing country environments which are undergoing or recovering from political, social and economic upheaval.⁴⁵ These challenges and more such as bureaucratic cultures often affect the ability of any well-established organization in the developed world to adapt and thrive in their new host community. Poor institutional performance has been a major factor affecting the development of Nigeria. Some institutions in the country lack the requisite manpower to perform their duties as many of the workers were appointed based on the people they knew and not the relevance of their field to the company or their competence. This, therefore, slows down the capacity of those institutions. Nigerians rely on a lot of state and federal institutions to improve their well-being but the institutions fail to satisfy people because of corruption, greed and laziness.

vii) Lack of Quality Education

Education is one of the most important factors affecting Nigeria's development as it has great significance with valuable benefits. Education serves as an important participatory process for both children and adults, and removes ignorance and illiteracy while promoting scientific and technical knowledge. It is through education that children can grow up and contribute meaningfully to the development of the society. Through education, people have adequate knowledge about their health, the economy and the running of government. Educated people are aware of their rights and can hold government accountable for any lapse in the affairs of the country. When people are not educated, it reduces the opportunities available for them to acquire a viable source of income to maintain themselves and members of their family. The Convention on the Rights of the Child

⁴² Article 5, Vienna Declaration and Programme of Action: Report of the World Conference on Human Rights, Vienna, 14-25 June 1993, UN Doc A/CONF.157/23 (1993); 32 ILM 1661 (1993) <www.ohchr.org/Documents/ProfessionalInterest/vienna.pdf> accessed 12 March 2025.

⁴³ L Minkler and S. Sweeney, "On the Indivisibility and Interdependence of Basic Rights Developing Countries" (2011) 33 *HRQ* 351.

⁴⁴ Article 6(2) UNDRD.

⁴⁵ Human and Institutional Capacity Development Handbook A USAID Model For Sustainable Performance Improvement prepared by the Participant Training team in the Office of Education, Bureau for Economic Growth, Agriculture & Trade, October 2010. <http://pdf.usaid.gov/pdf_docs/PNADT442.pdf> accessed 16 April 2025

(CRC) stated in its Article 24(e) that all segments of the society, including parents and children, should have access to education. This was reiterated in section 15 of the Child Rights Act, 2003, which states that a child has the right to free, compulsory and universal basic education.

Unfortunately, universal education has not yet been achieved in Nigeria, despite the significant progress that has been made over the years. According to UNICEF,⁴⁶ a quarter of all children (25 per cent) in the 7- 16 years age group have no education. Out of these, 49 per cent are from the lowest wealth quintile. As many as 9 in 10 of these children with no education are found in the North West (46 per cent) and North East geopolitical zones. They are also mostly found in the rural areas. Apart from the fact that many children do not have access to education, some learn in harsh conditions such as with collapsed roofs and buildings, inadequate table and chairs, tattered uniforms, lack of books and on empty tummies.⁴⁷ This affects the quality of education.

5. Solutions to the Barriers and Challenges of Development

i) Building Institutional Capacity

According to the United Nations Environmental Program (UNEP), capacity building is central to the quest for sustainable development and the ability of regional organizations, national governments and civil society to address the principal challenges of sustainable development, and must be reinforced.⁸⁸ Institutional capacity building has, therefore, become a core goal of technical assistance provided by the United Nations.⁴⁸ Instead of being regarded as merely a component or by-product of development program, capacity building has become a principal and explicit priority of all United Nations activities.⁴⁹ This effort should also be duplicated at the national level. Institutions saddled with developmental goals should be led with adequate capacity development strategies and policies. Institutions should be effective and accountable and there should be rigorous monitoring of outcomes.⁵⁰ Employments should also be based on what an individual can contribute to that institution.

An effective poverty reduction strategy process and a productive partnership can be built only on a platform of strong public capacity: capacity to formulate policies; capacity to build consensus; capacity to implement reform; and capacity to monitor results, learn lessons, and adapt accordingly.

⁴⁶ UNICEF Nigeria. "Situation Analysis of Children and Women in Nigeria."

(2011)update.<www.unicef.org/nigeria/publications_8467.html> accessed 19 November 2024.

⁴⁷ See Tunde Ajaja. "Sandwiched between Cemetery and Refuse: Ogun Pupils Abandon Classrooms, Study in the Sun." *The Punch* (Nigeria, 25 April 2015).<www.punchng.com/feature/sandwiched-between-cemetery-and-refuse-ogun-pupils-abandon-classroom-study-in-the-sun/>, where the only public school in Itoki, Ifo local government, Ogun State has a cemetery and dumpsite so close to the classrooms that pupils prefer to study in the hot sun than endure the stench which causes them to puke and spit constantly between lectures.

⁴⁸ UNEP, "Capacity Building for Sustainable Development: An Overview of UNEP Environmental Capacity Development Initiatives" (2002). <www.unep.org/Pdf/Capacitybuilding.pdf> accessed 20 April 2015.

⁴⁹ *Ibid*

⁵⁰ Steen Lau Jorgensen and Rodrigo Serrano-Berthet, "Comprehensive Social Policy for Inclusive and Sustainable Globalization" in Estanislao Gacitua-Mario, Andrew Norton and Sophia V. Georgieva (eds), *Building Equality and Opportunity Through Social Guarantees: New Approaches to Public Policy and the Realization of Rights*. (The World Bank 2009) 52.

Building the requisite capacities turn out to be a formidable challenge. For these reasons, enhancing the capacity of African states has risen to the top of the continent's development agenda.⁵¹

ii) Management of Globalization

Globalization needs to be managed well in order to produce further desirable results. Such management of globalization involves the establishment of institutions that would provide a social safety net to support those affected mostly by the abrupt changes that globalization brings. It has been claimed that developing countries should be allowed to develop adjustment programs, when jobs are lost to foreign competition. If developing countries cannot afford such programs, it has been proposed that the World Bank could fund them. Furthermore, some state intervention into agricultural policies should be allowed so that the farmers in the developing world are not wiped out by the vagaries of international trade.⁵²

iii) Combating Corruption

Corruption requires a complex approach, which should aim at addressing the causes, facets and structural issues that it entails. It also requires courage and a long-term commitment by a variety of anti-corruption actors. Political leaders, public servants, civil society, media, academics, private sector and international organizations must all play a role in fighting corruption.⁵³ Homes and schools can also provide a foundation for children as they can be taught about its consequences, while incorporating it into subjects in primary, secondary and tertiary levels. There is the need, also, for legal reform by way of increasing penalties for offenders, implementing and enforcing the laws so that they can effectively make corrupt officers accountable and serve as a deterrent to others. Anti-corruption agencies such as Economic and Financial Crimes Commission (EFCC) and Independent Corrupt Practices (and Related Offenses) Commission should be equipped with adequate funding and manpower and with honest, credible people so that they can effectively investigate, prosecute and eradicate corruption in Nigeria.

⁵¹ Sahr Kpundeh and Brian Levy (eds), *Building State Capacity in Africa: New Approaches, Emerging Lessons* (World Bank & Oxford University Press, 2004).

⁵² Examples such as the terrorist attacks of 11 September 2001, were launched by a group of non-state actors operating from within the territory of Afghanistan; the massive ethnic crimes in Rwanda, Congo, and Sudan are, in large part, the product of rebel forces within states; dangerous examples of nuclear proliferation can often be attributed to non-state criminal networks such as those of A. Q. Kahn. The 2004 Report of the Secretary-General's High-Level Panel on Threats, Challenges and Change identifies problems of intrastate origin such as "poverty, infectious disease and environmental degradation, civil war, genocide and other large scale atrocities, nuclear, radiological, chemical and biological weapons, terrorism, and transnational organized crime" are among the core threats facing the international community today. See generally, The 9/11 Commission Report (2004) <<http://govinfo.library.unt.edu/911/report/index.htm>> accessed 6 May 2025; Robert B. Edgerton, *The Troubled Heart of Africa: A History of the Congo* (St Martin's Press, 2002); Int'l Comm'n of Inquiry on Darfur, *Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General* (2005), <www.un.org/News/dh/sudan/com_inq_darfur.pdf> accessed 16 April 2025; William J. Broad and David E. Sanger, 'Pakistan's Nuclear Black Market Seen as Offering Deepest Secrets of Building Bomb', N.Y. Times, Mar.21, 2005, at A7; Secretary-General's High-Level Panel on Threats, Challenges and Change, *A More Secure World: Our Shared Responsibility* 2, U.N. Doc. A/59/565 (Dec. 2, 2004).

⁵³ Elli Louka. *International Environmental law: Fairness, Effectiveness and World Order*. (Cambridge University Press, UK. 2006) 49.

iv) Poverty Eradication

Poverty must be eradicated in Nigeria because of its harmful effects to the development of the nation. The federal government should make efforts to facilitate poverty reduction in urban and rural areas with focus on the provision of basic inputs that can enhance people's livelihood and incomes such as, agricultural inputs, credit facilities, training programs to develop skills, road networks, adequate wages and salary.⁵⁴ Creation of industries will also provide employment for the youths and thus, local and foreign investors should be encouraged to invest in Nigeria.

v) Accessible and Effective Education

Education should be a priority, with the construction of more schools, purchase of books and other educational tools. Local governments should ensure that schools are provided, even in the small communities, and adequate teachers employed to impart knowledge in them. Dilapidated structures, facilities and equipment should also be refurbished and rehabilitated.

vi) Enforcement of Laws

Adequate measures should be provided to enforce laws through appropriate mechanisms.⁵⁵ Since law enforcement officers have the greatest role to play, there is a need to increase their remuneration so as to provide them with enough incentive to work. They should be better trained to enable them respond better to situations that are reported to them or which they come across. Also, sanctions provided for violations of laws should be sufficiently severe to serve as a deterrent, and the laws should be made known and easily accessible to the entire population.⁵⁶ Adequate funds should also be provided for effective implementation.

6. Conclusion

The attainment of sustainable development objectives in developing countries remains a formidable challenge. Citizens in these societies are confronted with persistent socio-legal obstacles, including weak separation of powers and inadequate accountability of government institutions, which collectively hinder the realization of the right to development. Moreover, structural impediments such as poverty, limited access to education, fragile institutional capacity, entrenched cultural practices, and widespread tolerance of corruption further exacerbate the precarious living conditions of populations in these regions.

To address these complex challenges, this article has discussed the need for a holistic approach. A holistic approach to pursuing development means a practical approach which is garnered towards empowering the people, educating them, establishing equality and rule of law, and massive awareness and reorientation of the people. The independence of the judiciary should also be guaranteed and cases dispensed quickly so that people can receive justice.

⁵⁴ P. Adeyombo, "Corruption in Nigeria: Its Concept, Classifications, Consequences and Cures" (2013) 1 IFJR 119, 126.

⁵⁵ Onyemachi Thomas Uche, "Children, Status and the Law in Nigeria" (2010) 4 *IAARR* 378, 393.

⁵⁶ International Labour Organization and Inter-Parliamentary Union (2002) "Eliminating the Worst Forms of Child Labour: A Practical Guide to ILO Convention" No.182' <www.ipu.org/PDF/publications/childlabour_en.pdf> accessed 20 August 2024.



The government should also be sincere with its policies, developmental agenda and investments in the socio-economic lives of the people as the consequential improvement on the ESCR of the citizenry as a whole would impact positively on the implementation and actualization of the right to development in developing countries like Nigeria today. This can only be achieved where the existing legal frameworks are established, effectively implemented and applied across the board in favor of the entire citizenry. It must also be noted that without a consensus among the political office holders and the legislature, the challenges in the realization of sustainable development in developing countries would continue until the people are determined to approach them collectively.