



HUMAN RIGHTS, SUSTAINABLE DEVELOPMENT AND THE RIGHT TO DEVELOPMENT: AN INTERFACE OR RETREATING HORIZONS?

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ABSTRACT

Human rights is a concept under International law that has been recognized and embraced by the local laws or laws of nations (Jus gentium). The two international covenants and other bill of rights, particularly the economic, social and cultural rights and the political and civil rights provide for myriads of rights enjoyable by man both at the national and international levels. The right to development is provided for under the economic, social and cultural rights as one of the solidarity or group rights whereas sustainable development provides for goals for economic, social, cultural, political and civil development for the present and future generations. The African charter on Human and Peoples' Rights under its article 22 and 24 also provides for the right to development and satisfactory environment. These concepts literarily, looking at their characteristics and components may seem to be mutually related and interdependent yet they are of different subject matters fashioned for the wellbeing of man. The essence of this work therefore, is to review the points of confluence of the concepts; to know how and why they are interrelated; and also, to conclude that the right to development is the pivot upon which the relationships between human rights, sustainable development and the right to development stand.

Key Words: Human Rights, Sustainable Development, Right to Development, Man's Wellbeing, Solidarity Rights, Interface.

INTRODUCTION

Human rights and sustainable development are two different concepts that seek to enhance and improve the general wellbeing of man. Human rights are as old as the world, with man standing at its center and sustainable development. Human rights are the inalienable rights of man, as man was born with rights that are as old as the world. God made all things, in the beginning and gave man the right to take charge of all that He made.¹ God also accorded man the right to eat of all the fruits in the Garden of Eden, except the fruit of the tree in the midst of the garden² and also the right to choose between good and bad. All these rights are today

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¹ Holy Bible (Revised Standard Version) Gen 1:28-30.

² Holy Bible (n1) Gen 3:2-3.



considered as fundamental because they are inherent in man. The rights were first documented in 1215.³ However, considering the trends in contemporary society and the modern world, particularly from the second world war of 1939 – 1945 these rights inherent in man were codified and found their expressions and legal flavor in the Universal Declaration of Rights,⁴ and other international and regional covenants such as the bill of rights of 1966.⁵ Subsequently, these rights were encapsulated in the constitutions and laws of nations of the world, including Nigeria, all for the purposes of protecting and enforcing them. Some of these rights are the right to life, right to property, right to development, right to a safe environment, etc.

Sustainable development on the other hand is a concept that seeks to afford the wellbeing of man in a sustainable manner and for the present and future generations. Sustainable development carries with it goals that enhance human wellbeing and capacity in all spheres of life, which may be immediate, medium term or long term, depending on their set targets and objectives for global socio- economic, political, cultural and even moral advancements.

On the other hand, the right to development is captured in the international covenants and other international instruments which holistically emphasize development as of right in all facets of economic, social, cultural, political, and civil entities for the wellbeing of humanity. This article seeks to reveal the interface between human rights, sustainable development and the right to development, if any. It will also answer the question as to whether the term development is the confluence that binds human rights, sustainable development and the right to development, together and whether human beings are at the center of human rights and development sustainably.

HISTORY OF HUMAN RIGHTS

Before the entrenchment of rights in a written document, the kings of the Middle Ages saw themselves as rulers by divine grace; as rulers who governed the people in the service of God.⁶ Every act of state was taken in the name of God. In a system like this, where someone makes rules by divine grace, there is no room for human rights. The king is sovereign and is

³ English Magna Carta of 1215.

⁴ Universal Declaration of Rights 1948.

⁵ The Bill of Rights of 1966.

⁶ T. Fleiner, What are Human Rights? (The Federation Press 1999) 14.

not subject to the judiciary. However, the idea that people have inviolable rights is found in many philosophies and cultures.

The entrenchment of human rights in a written document first occurred in the famous English Magna Carta of 1215.⁷ Despite the declaration of their belief in human rights, the princes, with their ‘right to rule’, never allowed themselves to be restrained. They always expressed the view that human rights would be best protected when overseen by the princes themselves.

THE PHILOSOPHERS ON THE RIGHTS OF MAN

There existed some philosophers on the rights of man before the modern human rights, such as Bentham, Burke Marx, Hobbes, Locke, Kant, etc. who made land mark postulations on the rights of man in their days. For example, Bentham (1748-1832) was quoted to have postulated:

How stands the truth of things? That there are no such things as natural rights-no such things as rights anterior to the establishment of government-no such things as natural rights opposed to, in contradistinction to, legal: that the expression is merely figurative; that when used, in the moment you attempt to give it a literal meaning it leads to error, and to that sort of error that leads to mischief –to the extremity of mischief.⁸

Burk (1729 – 1797) postulated as follows:

As to the share of power, authority, and direction which each individual ought to have in the management of the state, that I must deny to be amongst the direct original right of man in civil society; for I have in my contemplation the civil social man, and no other. It is a thing to be settled by convention.⁹

Marx (1818- 1883) posited thus:

Thus, none of the so-called rights of man goes beyond egoistic man, man as he is in civil society, namely an individual withdrawn behind his private interests and whims and separated from the community. Far from the rights of man conceiving of man as a species- being... the

⁷ Fleiner (n6).

⁸ A. J. Langlois, ‘Normative and Theoretical Foundation of Human Rights’ in M Goodhart, *Human Rights, Politics and Practice* (1stedn, Oxford University Press 2009) 14; Anarchical Fallacies 1843.

⁹ Goodhart (n8); Reflections on the Revolution in France 1971.

only bond that holds them together is natural necessity, need and private interests, the conservation of their property and egoistic person¹⁰ Hobbes (1588 – 1679) postulated that:

The right of nature... is the liberty each man hath, to use his own power, as he will himself, for the preservation of his own nature; that is to say, of his own life; and consequently, of doing anything, which in his own judgment, and reason, he shall conceive to be the aptest means thereunto.¹¹

Locke (1632 – 1704) was of the view that: ‘Men being ... by nature all free, equal, and independent, no one can be put out of his estates and subjected to the political power of another without his consent.’¹² On the other hand, Kant (1724 – 1804) was referenced to have remarked as follows: ‘So act that the maxim of your will can at the same time be a universal law... treat all humans as ends in the selves rather than as mere means... conduct yourself as a member of a kingdom of ends.’¹³

MODERN HUMAN RIGHTS

The concept of human rights had a paradigm shift by the Second World War (1939 – 1945). The horror of total war and in particular, the atrocities of the Jewish Holocaust outraged the conscience of mankind- to cite the language of the UN’s Universal Declaration of Human Rights

(UDHR).¹⁴ In moral shock, the response of the collective western social imagination was to return to the natural law. Members of the Nazi leadership were charged and tried at the Nuremberg Tribunal (1945 – 1949), under the auspices of natural law, with crimes against humanity.¹⁵ This charge was not existent in any formal international document of law, but was one that, so it would be held, was patently clear and known to any reasonable person because it was a part of the natural law. Natural law then was invoked as the legal basis for the indictments against the Nazis and as the moral foundation for liberal democracy and human rights.

Human rights standards were placed centrally in the United Nations Charter (1945), and in 1948 the UN promulgated its universal declaration. The UDHR has a preamble and thirty articles, the first of which declares that ‘all human beings are born free and equal in dignity

¹⁰ GoodHart (n8); On the Jewish Question 1987.

¹¹ GoodHart (n8); Leviathan 1968.

¹² GoodHart (n8); The Second Treatise of Government 1952.

¹³ GoodHart (n8); Ground Work for the Metaphysics of Morals 2002.

¹⁴ GoodHart (n8) 15.

¹⁵ GoodHart (n8).



and rights.¹⁶ They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. The preamble reads thus:

Now, therefore, the general assembly proclaims this Universal declaration of human rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of members under their jurisdiction¹⁷.

A quick perusal of the declaration brings in for all the main elements of liberal political theory expressed in the idioms of first and second generation rights, which we will spotlight in this article. The emphasis is on freedom and liberty, dignity and equality; the importance of the rule of law, freedom from slavery and torture, and the presumption of innocence; the ownership of private property, freedom of religion and expression, and the right to take part in the government of one's country (first generation rights); and more controversially, rights to adequate standards of living, education and cultural participation (second generation rights).

THREE GENERATIONS OF HUMAN RIGHTS

In 1977, the UNESCO courier published a slender essay by Karel Vasak, a Czech-born, French jurist and director of UNESCO's Division of Human Rights and Peace. Entitled 'A 30- years struggle', Vasak's essay characterized human rights in international law in terms of three generations.¹⁸ The first generation, he wrote, concerns civil and political rights, especially those enshrined in the international covenant on civil and Political Rights (ICCPR). The second generation concerns economic, social and cultural Rights (ICESCR) while the third generation, which Vasak characterized as one that the international community is now embarking on, refers to what he called 'solidarity rights', which include the right to development, the right of self-determination, minority rights, the right to a healthy environment, the right to peace and the right to ownership of the common heritage of

¹⁶ The Universal Declaration of Rights 1948, Art 1.

¹⁷ UDHR 1948 (n16) Preamble.

¹⁸ K Vasak, 'A 30 Years Struggle' (UNESCO Courier November 1977) 29.



mankind.¹⁹ Today, the promotion of human rights is guided by what is referred to as the international Bill of Rights, which includes the UDHR and two treaties: the international covenant on civil and political rights and the international covenant on economic, social and cultural rights.

International Covenant on Civil and Political Rights (ICCPR)

Civil and political rights are regarded as first generation rights. They are a class of rights that protect individuals' freedom from infringement by governments, social organizations and private individuals. They ensure one's entitlement to participate in the civil and political life of the society and state without discrimination or repression. Note that the first generation rights are often called 'purple' rights.

Civil rights include the ensuring of people's physical and mental integrity, life and safety, protection from discrimination on grounds such as race, gender, sexual orientation, national origin, colour, age, political affiliation, ethnicity, religion, and disability and individual rights such as privacy and the freedom of thought, speech, religion, press, assembly and movement.

Political rights include natural justice (procedural fairness) in law, such as the rights of the accused, including the right to a fair trial; due process; the right to seek redress or a legal remedy; and rights of participation in civil society and politics such as freedom of association, the right to assembly, the right to petition, the right of self- defense, and the right to vote. Civil and political rights form the original and main part of international human rights. They comprise the first portion of 1948 Universal declaration of Human Rights (with economic, social and cultural rights comprising the second portion).²⁰

International Covenant on Economic, Social and Cultural Rights (ICESCR)

ICESCR is generally regarded as 'positive rights' as opposed to the negative rights of the first generation, because they require rights providers to act, rather than to refrain from interfering.²¹ They are regarded as second generation rights.

Economic, social and cultural rights are specified in article 16 and 22 – 29 of the UDHR. They identify an impressive list of human rights concerns and refer to:

¹⁹ Vasak (n18).

²⁰ Vasak (n18); Civil and Political Rights (https://en.wikipedia.org/wiki/civil_and_political_rights)> Accessed 26 September, 2019.

²¹ GoodHart (n8) 16.



- Marriage and family;
- Work and leisure (free choice of employment, just conditions of work, equal pay for equal work, first remuneration, freedom to form and join trade unions, and rest);
- A standard of living adequate for food, shelter, clothing, medical care and social services;
- Security in case of unemployment, sickness, disability, widowhood, and old age;
- Special care and assistance in motherhood and childhood;
- Education (free and compulsory elementary education, equal access based on merit, parental choice, and full development of human personality);
- Participation in the cultural life of one's community;
- Protection of one's own literary, scientific and artistic productions;
- Social and international order that enables these human rights to be realized; and one's duties to one's community.²²

Solidarity Rights

Solidarity right comprised the right to development right to ownership of common heritage of mankind and right to a safe environment. They are regarded as third generation rights. The third-generation rights are regarded as solidarity rights as they focus on group and collective rights indicative of the increasing recognition of the salience of community life in the overall benefit of human king.²³ These rights are often provided for by dedicated UN human rights instrumentalities such as the declaration on the right of peoples to peace, or the right to development.²⁴ This category of rights is the most controversial and least institutionalized. However, this classification does not reflect the indivisibility, dynamism and interrelationship existing between the various rights as recognized under the present human rights system.²⁵ It bears mentioning that the second category of rights which were treated with disdain by Western capitalist states during the cold war era because of their ideological orientation, is

²² D Shiman, 'Economic and Social Justice: A Human Rights Perspective'

<<http://hrlibrary.umn.edu/edumat/hreduseries/tblb/section1/tb1-2.htm>> Accessed 26th September, 2019.

²³ N S Okogbule, 'Globalization, Human Rights and the Marginalization of Indigenous People in Nigeria: Ikwerre Ethnic Nationality in Perspective', in C Chinwo (ed) *Opening and Enriching the Channels of Justice in the Nigerian Society* (Life, Law and Grace Bookhouse, 2018) 280 – 281.

²⁴ Goodheart(n8).

²⁵ Significantly, both the African Charter on Human and Peoples' Rights, and the Vienna Declaration on Human Rights 1993 stress the Indivisibility and Interrelatedness of the Various Human Rights. For Instance, the Vienna Declaration was unequivocal in proclaiming that 'All Human Rights are Universal, Indivisible, and Interdependent and interrelated'. The International community must Treat Human Rights Globally in a Fair and Equal Manner, on the same Footing, and with the same Emphasis.



now being embraced by such countries under the guise of social welfare schemes. These states are now in the vanguard of encouraging other states to ensure the enforcement and implementation of such rights in their countries.²⁶

SUSTAINABLE DEVELOPMENT

Sustainable development as a concept was both popularized and globalized via the Brundtland report in the year 1972 as follows:

Humanity has the ability to make development sustainable to ensure that it meets the needs of the present without compromising the ability of the future generations to meet their own needs. The concept... does imply limits- not absolute limits but limitations imposed by the present state of technology and social organization on environmental resources and by the ability of the biosphere to absorb the effects of human operations. However, technology and social organization can both be managed and enhanced to ensure an era of a new dawn for economic prosperity.²⁷

The subject of lasting development as propagated in the said report apparently advocate a continuous economic growth so long as we fashion out better ways of governing our environment to ensure earth survival and sustainability. The concept is presently stretched to the socio- economic realm where the target is not restricted to a sustainable level of physical stock from an ecosystem in cause of time, but some sustained upsurge in the level of societal and individual wellbeing. The wider context was considered very important to the objectives of sustainable development, in order to emphasize poverty alleviation, equity and all-inclusive global involvement and participation²⁸.

The United Nations' General Assembly also upheld the meaning and definition of the Brundtland report and further held that the United Nations (UN) conference on environment and development (UNCED) of June 1992 in Rio de Janeiro Brazil, popularly known as the 'earth summit' which focused on the concept of sustainable development, as the instrument of harmonizing the economic needs of the world with environmental protection²⁹.

The world summit on sustainable development (WSSD) which took place in Johannesburg, South Africa between August 26th and September 4th 2002, also highlighted

²⁶ Okogbule (n23) 281.

²⁷ D Craig, 'Global Sustainable Development: Human Rights, Environmental Rights and Indigenous Peoples' being Paper Presented at the Australian Human Rights Centre Seminar Series: Human Rights in Globalization World, 27th May 2003.

²⁸ D.O.N Agwor, 'Environmental Ethnics: A *Sine Qua Non* for Sustainable Development of the Ecosystem and Biodiversity' [2019] (4) *University of Port Harcourt Journal of Private Law* 243.

²⁹ A Omarka, 'Municipal and International Environmental Law (Lion Unique Concept 2012) 110.

that the elimination of poverty and inequality in our interdependent and globalized world lies at the heart of sustainable development.³⁰ The adoption of the final document reaffirmed the principles of sustainable development and directed the attention of this world in five priority areas to wit: water, energy, health, agriculture and biodiversity, emphasizing that progress in those areas are essential for preventing severe poverty in the year ahead.³¹

Principle of Sustainable Development

The principles of sustainable development are as follows:

1. Principle of intergenerational equity
2. Principle of sustainable use
3. Principle of equitable use or intergenerational equity
4. Principle of integration

Principle of Inter- Generational Equity

This principle emphasises the necessity to preserve natural resources for the benefit of future generations. Simply put, the principle presupposes the right of each generation to benefit from cultural and natural resources of the past generation as well as to preserve, conserve such heritage and biodiversity resources for the future generation. This principle has its genesis on principle I and 2 of the Stockholm declaration of 1972, where environment was considered the resources basis for the survival of the present generation and the right to be beneficially used for the future generation. Principle I and 2 provide as follows:

Principle I: man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of quality that permits a life of dignity and wellbeing and he bears a solemn responsibility to protect and improve the environment for the present and future generations.³²

Principle 2: The natural resource of the earth, including the air, water, lands, flora, and fauna and especially representative samples of natural ecosystems, must be safeguarded for the

³⁰ A R Ikechukwu, 'Sustainable Development: An Appraisal' [2018] (5)(1) *Port Harcourt Journal of Business Law* 141.

³¹ Ikechukwu (n30) 141 – 142.

³² United Nations Conference on Human Enviornment (1972) Principle I.



benefit of the present and future generations through careful planning and management as appropriate.³³

The objectives of this principle are to satisfy the need of the present generation for their survival without compromising the needs of future generation for survival and growth.³⁴ Interestingly, the principle of intergenerational equity is further incorporated in principle 3 of the Rio declaration 1992 which states: ‘the right to development must be fulfilled as to equitably meet development and environmental needs of the present and future generations.

Principle of Sustainable use of Natural Resources

This principle implies that natural resources should be exploited in a ‘sustainable’ or ‘prudent’ or ‘rational’, or ‘wise’ or appropriate manner.³⁵ The principle provides that the exploitation of a specific natural resources must be in sustainable, prudent and in a wise manner for the benefit of the present generation. It emphasizes much on the manner governing the rate of rise of exploitation of natural resources than on the preservation of the resources for future generations. For the marine living resources for instance, a standard approach has emerged requiring exploitation to be conducted at a level that are sustainable or optional.³⁶ Similarly, commitments are required and it has been agreed internationally to limit catches of marine species or productivity to a maximum sustainable level such as yellow- fin fauna not pacific fish and pacific fur seals³⁷.

The principle of sustainable use is also applicable to non- marine natural resources. The 1968 Africa nature convention provides that the utilization of all natural resources must aim at satisfying the needs of man according to the carrying capacity of the environment.³⁸

Principle of Equitable use or Inter- Generational Equity

This principle acknowledges that the use of natural resources by one state must take account of the needs of the other states. Equity and equitable principles are terms that are common in law. Equity implies a need for fairness (not necessarily equality) in the distribution of gains

³³ UUNCHE 1972 (n32) Principle 2.

³⁴ Report of World Commission on Environment and Development our Common Future (1987) 43.

³⁵ Ikechukwu (n30) 144.

³⁶ Fish Stock Agreement (1983) Art 2.

³⁷ Atlantic Turna Convention (1949) Act 4(1) (b) (II).

³⁸ African Nature Convention (1968) Act II; Amazon Treaty, (1978) Act I and VII.



and losses, and the entitlement of everyone or state to an acceptable quality and standard of living.

The principle of equitable use or intergenerational equity is well entrenched in international environmental law. Principle 3 of the United Nations' convention on environment and development 1992 invokes the right of developmental and environmental need of present and future generations. The universal declaration of human rights states that the recognition of the inherent dignity, and equal and inalienable rights of all members of human family is the foundation of freedom justice and peace of the world.³⁹ The role of this equitable principle was demonstrated in the case of *Gabeikovo v Nagymaros*,⁴⁰ where the ICJ held that (Zechoslovakia had violated International law by unilaterally assuming control of shared resources depriving Hungary of her right to equitable use of natural resources.

Principle of Integration

This principle suggests that environmental considerations be integrated into economic or other development plans, programmes and projects; and the development needs are prudently taken into account in applying environmental objectives.⁴¹ Integration into economic or other development entails that environmental considerations should be integrated into in all decision-making projects, plans and programmes.

Sustainable Development Goals (SDGs)

Sustainable development goals constitute the aftermath of the United Nations conference on sustainable development held at Rio de Janeiro, Brazil in 2012, which was adopted by member states in 2015 at the 70th session of the United Nations' General Assembly (UNGA) in New York. It is the United Nations' effort for all countries to have a common set of development agenda, transformative and people – centered goals which will stimulate action in the next 15 years with a deadline of 2030 for its attainment.

The goals are quite ambitious. They seek to address global challenges and are aimed at ending poverty and hunger, encouraging environmental ethics to reduce issues of inequality generally, reduce threat to good water, address issues of climate change, protect the planet, preserve the ecosystem and conserve biological diversity and natural resources by ensuring clean energy, uncontaminated water and sanitary conditions, moderate consumption

³⁹ Ikechkuwu (n30) 144 – 145.

⁴⁰ (1997) ICJ Report 78.

⁴¹ Omaka (n29) 112.



and production; ensure healthy wellbeing, promote education , etc. The seventeen specific cardinal goals for sustainable development are as follows:

- a. To eradicate poverty in all its forms across the globe.
- b. To terminate hunger, attain food security and enhanced nutrition and sustain agricultural productivity.
- c. To guarantee an all-round healthy living and promote the general well-being for all humanity at all ages
- d. To safeguard a rapid equitable and all- inclusive education and stimulate lifelong learning opportunities for all across the globe.
- e. To realize gender equality, and ensure the empowerment of all women and girls across the globe.
- f. To ensure the availability, sustainability and efficient management of water and sanitation across the globe.
- g. To guarantee access to affordable, reliable sustainable and modernized energy for all humanity across the globe.
- h. To enhance a sustainable and all inclusive economic growth, quality and productive employment and decent work for all.
- i. To construct resistant infrastructure, enhance inclusive and sustainable industrialization and faster innovation across the globe.
- j. To minimize inequality within and among countries to the lowest minimum.
- k. To build cities and human settlements that are indiscriminate, safe, resilient and sustainable across the globe.
- l. To guarantee sustainable consumption and production configurations across the globe.
- m. To commence and sustain an urgent action to mitigate climate change and its dangerous impacts across the globe.
- n. To guarantee a conservative and sustainable usage of the oceans, sea and aquatic resources for lasting development across the globe.
- o. To defend, restore and enhance sustainable usage of terrestrial ecosystems, effective management of forestry, fight against desertification and ensure the preservation of ecosystem and biodiversity conservation across the globe.
- p. To enhance peace and dialogue across the global societies for sustainable development and provide access to justice for all across the globe through effective, accountable and inclusive institutions at all levels.



- q. To fortify the modes of enforcement and revitalize the global partnership for sustainable development across the globe.⁴²

RIGHT TO DEVELOPMENT

Right to development cannot be discussed without its link with human rights and sustainable development. In fact, from our earlier discussion, it has been carefully observed that human rights and sustainable development are both anchored on the right to development, which of course, creates a niche for human development. The right to development can be rooted in the provisions of the charter of the United Nations, the universal declaration on human rights and the two international human rights covenants.

Through the United Nations charter, member states, undertook to promote social progress and better standards of life in larger freedom and to achieve international cooperation in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion.

The universal declaration on human rights contains a number of elements that became central to the international communities' understanding of the right to development. It attaches importance, for example, to the promotion of social progress and better standards of life and recognizes the right to non- discrimination, the right to participate in public affairs and the right to an adequate standard of living. It also contains everyone's entitlement to a social and international order in which the rights and freedoms set forth in the declaration can be fully realized.

An important step towards the recognition of the right to development was UN General Assembly Resolution 1161 (XII). In this resolution, the general assembly expressed the view that a balanced and integrated economic and social development would contribute towards the promotion and maintenance of peace and security, social progress and better standards of living and the observation of and respect for human rights and fundamental freedoms. In an international conference on human rights held in Tehran, Islamic republic of Iran, from 22 April to 13 May 1968, a belief was expressed that the enjoyment of economic and social rights is inherently linked with any meaningful and profound interconnection between the realization of human rights and economic development. It recognized the collective responsibility of the international community to ensure the attainment of the

⁴² United Nations General Assembly (UNGA) Resolution 70/i: Transforming our World, the 2030 Agenda for Sustainable Development 25 September, 2016 UN Doc A/RES/70/1.2016.



minimum standard of living necessary for the enjoyment of human rights and fundamental freedoms by all persons throughout the world.

Also, in 1969, the general assembly in its resolution 2542 (XXIV) adopted the declaration on social progress and development, which states that ‘social progress and development shall aim at the continuous raising of the material and spiritual standards of living of all members of society, with respect for and in compliance with human rights and fundamental freedoms.’

Furthermore, in its resolution 4 (XXXIII) of 21 February 1977, the UN commission on human rights decided to pay special attention to consideration of the obstacles impeding the full realization of economic social and cultural rights, particularly in developing countries, and of national and international action to secure the enjoyment of those rights. Recognizing the right to development as a human right, the commission requested the UN secretary – general to undertake a study on ‘the international dimensions of the right the right to development as a human right in relation with other human rights based on international cooperation, including the right to peace, taking into account the requirements of the New International Economic Order and Fundamental Human Needs’. The study was submitted and considered by the commission on human rights in its thirty-fifth session in 1979.

The commission subsequently, by its resolution 36 (XXXVII) of 11 March 1981, established a working group of 15 governmental experts to study the scope and contents of the rights to development and the most effective means to ensure the realization, in all countries of the economic, social and cultural rights enshrined in various international instruments, paying particular attention to the obstacles encountered by developing countries in their efforts to ensure the enjoyment of human rights. It also requested the working group to submit a report with concrete proposals for implementation of the right to development and for a draft international instrument on this subject.

Again, the right to development was proclaimed by the United Nations in 1986 in the ‘Declaration of the right to development’, which was adopted by the United Nations’ General Assembly resolution 41/128. As follow- up mechanism to ensure promotion and implementation of the declaration on the right to development, the commission established an inter-governmental working group on the right to development in 1998, and its high level task force on the implementation of the rights to development in 2004.⁴³

⁴³ Development – Right to Development

<<https://www.ohchr.org/EN/Issues/Development/Pages/Backgroundtrtd.aspx>>Accessed 17th February, 2022.



The Declaration on the Right to Development

The declaration on the right to development defines such right as ‘an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized’.⁴⁴ The right to development includes:

- Full sovereignty over natural resources
- Self determination
- Popular participation in development
- Equality of opportunity
- The creation of favourable condition for the enjoyment of other civil, political, economic, social and cultural rights.⁴⁵

The human person is identified as the beneficiary of the right to development, as of all human rights. The right to development can be invoked both by individuals and by peoples. It imposes obligations both on individual states – to ensure equal and adequate access to essential resources and on the international community to promote fair development policies and effective international cooperation.⁴⁵

Right to Development under the Vienna Declaration

The world conference on human rights held in Vienna in 1993, dealt extensively with the right to development. It adopted the Vienna declaration and programme of action, which recognizes that democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing.

The world conference reaffirmed by consensus the right to development as a universal and inalienable right and an integral part of fundamental human rights. It further stated that, while development facilitates the enjoyment of all human rights, lack of development may not be invoked to justify the abridgement of internationally recognized human rights.⁴⁶ As stated in the declaration on the right to development, the human person is the central subject of development. States should cooperate with each other in ensuring development and eliminating obstacles to development. The international community should promote an effective international cooperation for the realization of the right to development and the

⁴⁴ The UN Declaration on the Right to Development 1986, Art. 1.

⁴⁵ (n43).

⁴⁵ (n43).

⁴⁶ (n43).

elimination of obstacles to development. Lasting progress towards the implementation of the right to development requires effective development policies at the national level, as well as equitable economic relations and a favourable economic environment at the international level.⁴⁷

Right to Development and the Millennium Development Goals (MDG8)

Right to development was a cardinal factor in the millennium development goals whose main target was the eradication of poverty amongst nations. The aim of the millennium declaration is to direct development efforts of all relevant actors towards the realization of agreed goals. In this regard, it can be said that the millennium declaration is the closest the international community has come to organizing international solidarity for achieving a number of human rights- related goals. For example, the right to primary education compulsory and truly free, is immediately applicable under the International Covenant on Economic, Social and Cultural rights. The declaration gives recognition to the fact that an international effort by various actors will be required if even very basic levels of satisfaction of what are in fact economic, social and cultural rights, are to be achieved within the prescribed time frame.⁴⁸

In his final report to the Human Rights Council, the former independent expert on human rights and international solidarity, Mr. Rudi Muhammad Rizki underlines the value and significance of international solidarity in an interdependent world and how it may eventually guide the progressive development of International law on human rights and international solidarity. He posited in the same report that several respondents viewed international solidarity and the right to development as complimentary and mutually reinforcing and that international solidarity should be an indispensable component of efforts to realize the right to development, which could help lessen the gap between developed and developing countries by buttressing rhetoric and declarations with tangible actions. He further reported the view by some respondents that the right to development mandates fostering just global, social and economic arrangements and a sense of human solidarity among all people.⁴⁹ He notes however that international relations are still subject to the law of the strong

⁴⁷ Vienna Declaration and Programme of Action

<https://en.wikipedia.org/wiki/vienna_declaration_and_programme_of_action> Accessed 26th September, 2019.

⁴⁸ V B Dandan, 'International Solidarity, the Right to Development and a Millennium Development Goals'

<<https://www.aps23.org/downloads/files/ONU/CONSIGLI/18%20consiglio/virginia%20Dandan%20speech.pdf>

> Accessed 15th February, 2020.

⁴⁹ (n49).



and powerful in economic and military terms and that attempts to exercise pressure on other countries pose a challenge that requires international cooperation.

Note that All MDGs under MDG8 speak to poverty eradication, in the short- run and in the long run, at the national and international levels. This is as a result of the fact that poverty constitutes a denial of human rights.⁵⁰ In this regard, the declaration on the right to development in its article 3.3 similarly underscores how ‘states have the duty to cooperate with each other in ensuring development and eliminating obstacles to development. States should realize their rights and fulfill their duties in such a manner as to promote a new international economic order based on sovereign equality, interdependence, mutual interest and cooperation among all states, as well as to encourage the observance and realization of human rights.’⁵¹ The above therefore, underscores the MDGs direct link to the provisions of the covenant and the right to development.

Right to Development under the African Charter on Human and Peoples’ Rights

The African Charter on Human and Peoples’ Rights, 1981 links rights to development and environment, Article 22 states that: ‘All peoples shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind.’⁵² Article 24 postulates that: ‘All peoples shall have the right to a general satisfactory environment favourable to their development and states shall have the duty, individually or collectively to ensure the exercise of the right to development.’⁵³

It may be deduced from the foregoing that international recognition of the right to development is holistic and omnibus is so far as it affects every ambit of human sustenance, be it economic, social, cultural, environmental, political, or civil for the benefit of mankind. All the sustainable development goals depend on the economic, social, cultural, political and civil development for their sustainability and enforceability via human rights provisions. More so, state rights to sustainably manage resources for the benefit of the present and future generations link human rights with sustainable development and the right to development. The reason is that, if natural resources are sustainably managed, there can only be rooms for

⁵⁰ In May 2001 the CESCR adopted a statement on poverty and economic social and cultural right, where the committee expressed its firm view that poverty constitutes a denial of human rights.

⁵¹ (n49).

⁵² ACHPR 1981 now in Cap A9 LFN, 2004, Art 22.

⁵³ Cap A9 LFN, 2004, Art 24.



their preservation and development instead of wastages, losses or extinctions, for the use, benefit and development of the present and future generations.

CONCLUSION

From the above, the right to development stands out as a potent pillar binding itself with human rights, and sustainable development. It is seen as the basis for the interface between the three concepts. The two human right covenants to wit: civil and political rights and the economic, social and cultural rights, and other bill of rights are for the purpose of human fulfillment, wellbeing and development, as of right. The right to development as part of the rights referred to as the ‘solidarity and the third generation rights’ emphasizes development in all aspects of humanity using human right provisions as tools. On the other hand, sustainable development provides for developmental goals in all areas of human endeavor, which are expressly or tacitly entrenched in the human rights covenants or the bill of rights. Hence, all the goals appearing in the sustainable development and MDGs are reflections of the gamut of human rights as they are all recognized, protected and sustainably achievable for the present and future generations through human rights as a tool, otherwise they may be watery, anachronistic and unrealizable.

In view of the foregoing, therefore, it is our conclusion that human rights, sustainable development and the right to development are intertwined and inseparable. They all have a common purpose, which is the advancement of human development in all areas of life in a sustainable manner.