

---

THE BORDERLINES OF RULE OF LAW, GOOD GOVERNANCE AND  
SUSTAINABLE DEVELOPMENT: A DISCOURSE

HANAFI, Hammed A.

Faculty of Law, Kogi State University, Anyigba, Nigeria

ABSTRACT

Governance embraces all the methods that societies employ to distribute power and manage public resources and deal with problems. This paper treats the concepts of rule of law, good governance/democracy and sustainable development as they applied more specifically to the African context. The paper examined the various definitions given by various authors, writers and international organisations to the three concepts, the interface of good governance and democracy and the relationship amongst the three terms. The paper further discussed the steps taken so far to promote the rule of law and sustainable development and the needs for compliance and enforcement various laws and regulations to guarantee 'rule of law, governance and democracy and sustainable development' and treats one of the greatest challenges "corruption" confronting rule of law, good governance and sustainable development in Africa.

*Keywords:* Rule of Law, Democracy, Sustainable Development

1. INTRODUCTION

It is widely recognised that good governance is essential to sustainable development. Well functioning legal institutions and governments bound by the rule of law are, in turn, vital to good governance. Weak legal and judicial system where laws are not enforced and non-compliance and corruption are the norms undermines respect for the rule of law and undermines progress towards sustainable development. Practitioners in the development field have increasingly turned their attention to reforms to improve legal and judicial institutions and promote the rule of law and good governance. For example, various United Nations agencies such as the United Nations Environment Programme (UNEP) and the United Nations Development Programme (UNDP) as well as the World Bank and other regional development banks, are directing increasing resources to reform legal and judicial institutions.

Most of these efforts have concentrated on developing new laws and creating new institutions rather than building capacity for ensuring compliance with existing rules. Yet, without compliance, laws and regulations are meaningless or worse, they undermine respect for the rule of law and cannot promote sustainable development. As a result, many developing countries and countries with economies in transition still suffer from weak legal and judicial systems, lack of investment and poor development prospects, sustainable or otherwise.

Oluigbo<sup>1</sup> argues that what future role democracy and good governance will play in Africa will depend on what the present crop of African leaders make of the present democratic experiment. He further opines that the dual concepts have long eluded the African continent. More than four decades after the attainment of independence many African nations still grapple with the age-long dream of establishing an enduring democracy on the African soil. The work only shows that the future role of the dual concept depends on the present African leaders. Olukoshi<sup>2</sup> hails the New Partnership for Africa's Development (NEPAD) as perhaps the boldest new initiative in recent times on the appropriate path which the Africa continent should be taken towards its long-term development. He did not at all discuss the concepts of rule of law, good governance and sustainable development. Shivute<sup>3</sup> examines the role of the rule law in free and democratic society. He believes that the rule of law is not confined to the negative aspects of preventing the Executive from abusing its power. It has positive aspect involving the duty of government, not only to prevent personal rights but to act positively for the well-being of the people as a whole. It is apparent that he did not intend to relate his work on good governance and sustainable development as the present writer intends to do in his own work.

Dare, et al<sup>4</sup> believe that globalisation has been an important factor in accelerating democracy's growth in recent decades. They equally examined the impact of globalisation on good governance and democracy. In their own work, they did not relate democracy and good governance to sustainable development.<sup>5</sup> Halfdan<sup>6</sup> argues that NEPAD has helped to place democracy and good governance at the centre of Africa's development agenda and to increase the European Union focus on Africa's development challenges thus, NEPAD has acknowledged democracy and good governance as conditions for sustainable development and made provision for setting up the African Peer Review Mechanism. Halfdan focus was on NEPAD which is at a great variance with the content of the work of the present writer. The Ghana Centre for Democratic Development (CDD-Ghana)<sup>7</sup> recognised governance and democracy as prerequisites for sustained development without considering the rule of law and good governance as parts of the conditions required for sustained development.

<sup>1</sup> Oluigbo, C. "Democracy and Good Governance." on 27<sup>th</sup> August, 2011. <http://www.authorsden.com/visit/viewArticle.asp?id=53739> accessed on 27<sup>th</sup> August, 2011.

<sup>2</sup> Olukoshi, A. "Governing the African Political Space for Sustainable Development: A Reflection on NEPAD." Paper presented at the African Forum for Envisioning Africa. Nairobi, Kenya, 26-29, April, 2002.

<sup>3</sup> Shivute, P. "The rule of law in sub-Saharan Africa: An Overview." (2010) <<http://www.kas.upload/auslandshomepages/nambia/HumanRights/shivute2.pdf>> accessed on 27<sup>th</sup> August, 2011.

<sup>4</sup> Dare, A. et al, "Globalisation, Good Governance and Democracy: The Interface." Academic Leadership, The Online Journal, Current Issue, Vol.9, Issue 2, Spring 2011, <http://www.academicleadership.org/article/>> accessed on 27<sup>th</sup> August, 2011.

<sup>5</sup> Elijah, D.M. "Good Governance and its Relationship with Peace and Stability in East Africa." Paper presented to the 2<sup>nd</sup> East African Conference on Good Governance for Sustainable Integration, Stability and Development. Nairobi, Kenya. 19<sup>th</sup>-20<sup>th</sup> August, 2010. <http://www.eac.int/politicalfederation/index.php?option=comdocman&task=docdownload&gid=52&itemid=125> accessed on 23<sup>rd</sup> April, 2011.

<sup>6</sup> Halfdan, L.O. "NEPAD's Contribution to Democracy and Good Governance in Africa." International Institute for Democracy and Electoral Assistance. Sweden, (2010)

<sup>7</sup> The Ghana Centre for Democratic Development (CDD-Ghana) "Governance, Democracy and Development in Africa: A Cultural Approach." Presented at the International Conference on the Cultural Approach to Development in Africa organized by the African Institute for Economic Development and Planning (IDEP), Dakar, Senegal, 10-14 December, 2001 <http://www.uneca.org/itca/governance/documents/governerdemoc&devculturalapproach.pdf> accessed on 21<sup>st</sup> March, 2012.

In many democratic governance in the World, rule of law and good governance are necessary bedrocks for sustainable development<sup>8</sup>. However, these concepts carry many meanings and strategies for promoting them.

## 2. THE SIGNIFICANCE OF THE RULE OF LAW

Aristotle describes the term rule of law as preferable to that of any individual and goes on to note that having men govern is like adding a wild animal also; for appetite is like a wild animal and also passion warps the rule even of the best men. For Aristotle, the law was nothing less than the rule of reason.<sup>9</sup> The term rule of law is the notion that the powers of state and government can be exercised legitimately only in accordance with the applicable laws and laid down procedures. Thus, the legitimacy of all organs of state and its institutions must have roots in the law. As administrative lawyers in common law jurisdictions would say; the exercise of any power of state or government must be traceable to any applicable written law and procedure. In this regard, every public office-bearer and every public official are accountable for every act done that the law does not authorise as it applies to any private person. Doubtless as a principle, the rule of law is intended to be a safeguard against arbitrary and capricious governance and abuse of state and all the institutions of government.<sup>10</sup>

Many institutions identify a fair, impartial, and accessible judicial system and a representative government as key elements of the rule of law. The term “rule of law” is used to mean independent, efficient and accessible judicial and legal systems, with a government that applies fair and equitable laws equally, consistently, coherently and prospectively to its people.<sup>11</sup>

The hallmarks of respect for the rule of law include separation of powers of the executive, the legislature and the judiciary; regular, free and fair elections in which the electorates are asked to freely choose their rulers, an independent and impartial judiciary coupled with an independent, fearless and vibrant legal profession, free and independent

---

<sup>8</sup> Dicey, A.V. “Introduction to the Study of Law of Constitution.” (Sweet and Maxwell, London, 1987), p.123.

<sup>9</sup> Aristotle, *Politics* (H.O. Backham Tran... 1944), p.256. In 1803, US Supreme Court Chief Justice Marshall wrote in *Marbury V. Madison* that “the government of the United States has been emphatically termed a government of laws and not men”.. 5, U.S.137, 163 (1803). See *Ojukwu v. Military Administrator, Lagos State*. The brief fact of this case is that Ojukwu has a residential house at No.29, Queen,s Drive, Ikoyi-Lagos and the Lagos Government wanted to unlawfully eject him from the property. The Lagos State Government used some one hundred and fifty armed men to evict ojukwu, even when his suit was pending in the high court and his application was before the Court of Appeal. Nnameka Agu JCA delivering the ruling of the Court of Appeal traced the history of such forcible eviction from time of Richard II in England and dealt with the position of law in this country. And after a thorough investigation of the law in regard to which, I would respectfully commend the learned justice for his industry, he came to the conclusion that the right self-help ended when the issues were turned over to the court. The Court then ordered that Ojukwu be reinstated into the property following the forcible ejection which the Lagos State Government termed self-help.

<sup>10</sup> Massachusetts Constitution, part the First, Article xxx. The Article in its entirety reads: In the government of this Commonwealth, the Legislative departments shall never exercise the executive and the judicial powers or either of them: the executive shall never exercise the legislative and judicial powers, or either of them: the judicial shall never exercise the legislative and executive powers or either of them: to the end it may be a government of law and not men.

<sup>11</sup> The World Bank, Initiative in Legal and Judiciary Reform.

<[http://www.4.worldbank.org/legal/leglr/\(2004\)](http://www.4.worldbank.org/legal/leglr/(2004)); Christina Biebeghimer &J. Mark Payne, IDB Experience in Justice Reform; lesson Learned and Elements for Policy Formulation 4 <<http://www.iadb.org/sds/doc/sgc-IDBExperience-E.pdf> (2001 Inter American Development Bank); Organisation for Economic Co-operation and Development (OECD), Final Report of the Ad Hoc Working Group on Participatory Development and Good Governance, Part 1, 10. <<http://www.oecd.org/dataoecd44/12/1894642.pdf> (1997) (hereinafter Final Report of the Ad Hoc Working Group.

media institutions; and equality of the people before the law. What has gone before denotes the principle of legality which underlies the concept of rule of law. In that sense, the principle conduces to what John Adam referred to in his draft constitution of the Commonwealth of Massachusetts in 1770, as “a government of laws and not of men”.<sup>12</sup>

It could be said that, in that narrow sense, the concept of the rule of law in itself says nothing but the justness and fairness of the laws. The upshot is that, if that narrow idea is taken of the rule of law, states which do not respect human rights can carry on business as usual without the observance of the rule of law. But it is non controversial that the rule of law is considered as a prerequisite for good governance and democratic practice which can earn a state sustainable development. It cannot therefore be contradicted that the rule of law plays a crucial role in the promotion of good governance and sustainable development.<sup>13</sup>

The rule of law demands that the courts should prevent any abuse of discretionary powers, especially when such powers are conferred in excessively sweeping language and they are sometime, exercised in a manner that amounts to an abuse and overzealous official faced with the fact that the legislature in many developing countries like Nigeria freely confers discretionary power with little regard to the danger of abuse, the courts in Nigeria have attempted to strike a balance between the needs of fair and efficient administration and the need to protect the citizens against arbitrary government. Here, the courts would appear to have realized on their own judgments, sensing what is required by the interplay of forces in the constitution.<sup>14</sup> It is important to state here that the judiciary on a large number of occasions checked the executive when the executive attempt to trespass on the fundamental right of the individual under the constitution. For example, *Shugaba Abdulrahman Darman v. The Federal Minister of International Affairs & Ors.*<sup>15</sup> This is a celebrated case in Nigeria where the court held that Shugaba as Nigerian could not be deported from the country whether or not he was declared a security risk. Without the protection offered by the court through the rule of law, perhaps, all kinds of abuses would have been possible and the rule of arbitrary power would have successfully replaced the rule of law at the earliest stage of the second republic in Nigeria.

Another important aspect of the rule of law provided by the constitution of Nigeria is the fact that no citizen can be punished except for some legally defined crimes. The Constitution provides that no person shall be held guilty of a criminal offence on account of any act or omission that did not, at the time it took place, constitute such offence and no penalty shall be imposed for any criminal offence heavier than the penalty in force at the time the offence was committed,<sup>16</sup> even though, this has been part of Nigeria law, as decided in the case of *Aoko v. Fagbemi.*<sup>17</sup> That is, the court held that the offence (adultery) for which the accused person was convicted of was not written and there was no punishment prescribed therein.

Rule of law has equally been described as the supremacy of regular as opposed to arbitrary power. The concept of rule of law has been accepted and promoted by many international organisations: the rule of law is generally defined to include independent, efficient and accessible judicial and legal systems, with a government that applies fair and equitable laws equally, consistently, coherently and prospectively on all citizens. The World Bank identifies transparent legislation, fair laws, predictable enforcement and an

<sup>12</sup> Massachusetts Constitution, part the First, Article XXX.

<sup>13</sup> Shivute, P. “The Rule of Law in sub-Saharan Africa: An Overview” <<http://www.kas.de/upload/auslandshomepages/nambia/HumanRights/Shivute2.pdf>> accessed on 29<sup>th</sup> August, 2011.

<sup>14</sup> Oluyede, P.A.O. *Constitutional Law in Nigeria*. (1<sup>st</sup> edition, Ibadan; Evans Brothers Nigeria Publishers Limited, 2001), p.80.

<sup>15</sup> (1982) 3 N.C.L.R. 915 with Nassir, P. only dissenting on this point out of a court of seven.

<sup>16</sup> Section 36 (8), Constitution of Federal Republic of Nigeria, 2011 as amended.

<sup>17</sup> (1961) 1 All N.L.R. 406.

accountable and legitimate government that maintains order, promotes private sector growth and fights poverty as the key element of the rule of law.<sup>18</sup> The European commission describes the rule of law as having the following features:

- A legislature that enacts laws that respects the constitution and human right;
- An independent judiciary;
- Effective, independent and accessible legal services;
- A legal system guaranteeing equality before the law;
- A prison system respecting the human person;
- A police force at the service of the law;
- An effective executive that is capable of enforcing the law and establishing the social and economic conditions necessary for life in society and that is itself subject to the law; and
- A military that operates under civilian control within the limits of the constitution.<sup>19</sup>

### 3. DEMOCRACY AND GOOD GOVERNANCE

Good governance and democracy have become widely recognized as prerequisites for sustainable development<sup>20</sup> and it is quite difficult to talk about good governance in the absence of democratic rule. The terms “democracy” has often been used in three senses that are fairly distinct even though it refers to aspects of the same phenomenon. In a general sense, democracy is used to describe a system of government in which ultimate power (or sovereignty) rests with the people against other forms of government in which the final decision making power rests with an individual (monarchy)<sup>21</sup> or with a small number (aristocracy).<sup>22</sup> It is really in this sense that Aristotelian classification of political systems into democracy is based.<sup>23</sup> There is however a second sense in which the term is used in the political realm, that is, institutionally. In this sense, democracy is used to describe a system of government in which the powers of government are divided amongst different institutions such that some institutions are responsible for making laws while others are responsible for executing the laws and yet, the third institution is responsible for interpreting the laws or mediating and adjudicating disputes between different individuals or groups who violate the laws of the land.

In institutional terms, the presence or absence of such separation or distribution of governmental powers is taken as a major indicator of the presence or absence of democracy. Democracy can be described in terms of the procedure by which a political system is governed. In most democracies, an essential procedure by which most essential decisions are taken is to subject them either in a popular election, a plebiscite or a referendum. The basic rule in all such popular elections or consultations is that the opinion expressed by the majority is the dominant position that needs to be adopted while the minority opinion will be

---

<sup>18</sup> United Nations Millennium Declaration Res55/2 September, 2000  
<[www.un.org/millennium/declaration/ares552e.pdf](http://www.un.org/millennium/declaration/ares552e.pdf)>accesse on 20<sup>th</sup> March, 2012 and the World Bank. Initiatives in Legal and Judicial Reform 3 (2004).

<sup>19</sup> Draft Hand Book on Promoting Good Governance in EC Development and Co-operation.57.<<http://European.eu.inc/comm./europeaid/projects/eidhr/pdf/themes-gghandbooken.>>accessed on 20<sup>th</sup> March,2012. See Chritina Biebesheimer and J. Mark, Ibid.

<sup>20</sup> Johnson, C. MITI and Japanese Miracle. Stanford: University Press, (1982).

<sup>21</sup> This type of government is one of the earliest known to man. The ruler here may be called the King, Oba, Emir, Emperor etc. He may be assisted by some subordinates or chiefs. The office itself is hereditary.

<sup>22</sup> A system of government where few people are ruling and they are referred to as noble people.

<sup>23</sup> Odock, C.N. “Democracy and Good Governance.” (National Open University of Nigeria, University of Calabar, (2006), p.20 <http://www.nou.edu.ng/noun/NOUNOCL/pdf/pdf2/PCR%20104.pdf>accessed on 17<sup>th</sup> March,2012.

subordinate to the majority position.<sup>24</sup> The dimensions of democracy are usually either closely interwoven or not clearly separated in many works on the subject. Generally, democracy involves the opportunity to participate in decision making in the political process.<sup>25</sup> It repudiates the arbitrariness and authoritarianism. It extols the consent of the governed and protects human personality and value.<sup>26</sup>

Democracy includes fundamental recognition of popular sovereignty, equal opportunity for all, majority rule, representativeness, minority rights, rights of choice between alternative programmes, popular consultation, consensus on fundamental issues and more essentially, periodic elections.<sup>27</sup> The concept of democracy confers the opportunity to participate in decision making by all adult citizens. The citizenry enjoys widespread participation in the political process. Though, all these are not exhaustive of the elements of the democracy, particularly when taken to the variant manifestation in history.

Governance has been defined as “the emergence and recognition of principles, norms, rules and procedures that both provide standard of acceptable public behaviour and that are followed sufficiently to produce behavioural regularities.”<sup>28</sup> Governance can also be seen as both processes and arrangements that ensure orderliness, acceptable standard of allocation of resources both human and material and a legal framework within which national behaviour is shaped and controlled. Good governance can therefore be seen as a “broad reform strategy and a particular set of initiatives to strengthen the institutions of civil society with the objective of making government more accountable, more open and transparent and democratic”<sup>29</sup>.

Good governance has been closely linked to “the extent to which a government is perceived and accepted as legitimate, committed to improving the public welfare and responsive to the needs of its citizens, competent to assure law and order and deliver public services, able to create an enabling policy environment for productive activities; and equitable in its conduct.”<sup>30</sup> The holistic perception of good governance by the World Bank largely illuminates the hidden virtues of the concept. It views governance as “the means by which power is exercised in the management of the country’s economic and social resources for development and good governance as synonymous with a broad sphere of public sector management, accountability, legal framework for development; information and technology; the legitimacy of government; the competence of government to formulate appropriate policies, make timely decisions; implement them effectively and deliver services.”<sup>31</sup>

Notwithstanding the different meanings given to the terms “good governance” by different writers, it indicates that good governance depends on its own premise on democracy and rule of law which are most often referred to the country where conducts are governed by sets of rules that are applied predictably, effectively and fairly by independent institutions to all members of the society including those who govern.<sup>32</sup>

<sup>24</sup> Ibid.

<sup>25</sup> Oke, L. “Democracy and Governance in Nigeria’s Fourth Republic”. In Dare Arowolo, et al (eds.) Public Administration in Nigeria. (Akure: Alabi-Eyo & Co. Ltd 2010).

<sup>26</sup> Ake, C. “For Africa: The Way forward.” (The Guardian, Lagos, November 13, 1991)

<sup>27</sup> Oke, L. “Globalisation, Democracy and Women Empowerment: Issues and Challenges in Nigeria. In Olu-Olu (ed): Perspective on Globalisation and Africa Development, (Lagos, Bolaby Publications, 2005), p.45.

<sup>28</sup> Keohane, R.O. and Nye, J.S. *Power and Interdependence: World Politics in Transition*. (New York. Boston: Little Brown, 1989).

<sup>29</sup> Minogue, M. “The Principles and Practice of Good Governance.” Law and Government4 (British Council Briefing, 1997), p.4.

<sup>30</sup> Sharma, S.G. “Democracy, Governance and Economic Development”. Taiwan, Taiwan Journal of Democracy, Vol.3, No.1, 2007), pp. 29-62.

<sup>31</sup> Cheema, S. G. and Maguire, L. “Democracy, Governance and Development: A Conceptual Framework”. (New York United Nations Development Programme. (2004).

<sup>32</sup> There are three institutions in democratic system of government: the executive, the legislature and the judiciary. Each complementing the other under the doctrine of Separation of Powers. See John

The United Nations Development Programmes (UNDP) refers to good governance not only as a ridding society of corruption but also giving people the means, the rights and the capacity to participate in the decision that affects their lives and to hold their governments accountable for what they do. It means fair and just democratic governance.<sup>33</sup> It is momentous to observe five principles that underscore good governance to wit; openness, participation, accountability, effectiveness, and coherence.<sup>34</sup> The Organisation for Economic Co-operative and Development (OECD) identifies similar sets of essential features to include openness, transparency and accountability, fairness and equity in dealing with citizens; efficient and effective services; clear and transparent laws and regulations; consistency and coherence in policy formation; respects for the rule of law; and high standards of ethical behaviour.<sup>35</sup>

Democracy on its own does not denote good governance. Deep-rooted and consolidated democracy in the form of liberalism or what <sup>36</sup> is called maximalist democracy can and indeed has been found to be able to engineer good governance. According to them, “maximalist democracy” encompasses various rights and liberties that have to be associated with a competitive and inclusive system of government.<sup>37</sup> While illuminating the maximalist approach of democracy, Diamond submits that the maximalist definition of democracy is holistic as it incorporates ‘not only a civilian, constitutional, multiparty regime with regular, free and fair elections and universal suffrage but organizational and informational pluralism, extensive liberties (freedom of expression, freedom of the press, freedom to form and join organisations); effective power for elected officials; and functional autonomy for legislative, executive and judicial organs of government. For a democracy to evolve good governance, there are five interrelated conditions that must exist which include; the rule of law to guarantee citizens’ freedoms and independent associational life, functional state bureaucracy which can be used by the democratic government to deliver public good, relatively autonomous and valued political society, free and lively civil society and an institutionalized economic society.<sup>38</sup>

Liberal democracy entails not only free and fair elections in terms of the administration of the voting and vote counting. A liberal or high quality democracy requires a more comprehensive fairness of political competition embodied in the concept of a ‘level playing field.’<sup>39</sup> In a high quality democracy, the electoral arena is open and the playing field is relatively level. Also, liberal democracy requires extensive public freedoms of speech, press, information, association, assembly, movement, etc. This is simply fundamental. Only in a free society with a vigorous public space can good governance be achieved. Only if people are free to organize, protest and petition, only if groups can assert their interests and values, only if the media can report, investigate and expose government policies and actions without fear or favour, can there be meaningful competition,

Montesques: *The Spirit of Law* (1948), John Lock; *Treaties in Government* (1960), p.76, Nwabueze, B.O. *The Presidential Constitution of Nigeria* (Sweet and Maxwell, London, 1982) p.32.

<sup>33</sup> Gerge, N. “UNDP Role in Promoting Good Governance.” Paper presented at the Congress of the Labour Party of Norway, Oslo (2002), pp.4-5. <[www.undp.org/oslocentre/docoslo/publications](http://www.undp.org/oslocentre/docoslo/publications)>accessed on 10th March, 2012.

<sup>34</sup> Commission for European Communities, *European Governance. A White Paper.* (20010 <<http://europa.eu.int/eur-le/en/com/enc/20010428en01.pdf>>accessed on 10<sup>th</sup> March, 2012.

<sup>35</sup> OCED Ad Hoc Working Group. *Ibid*, Note 11, p.2

<sup>36</sup> Cheema, S. G. and Maguire, L. “Democracy, Governance and Development: A Conceptual Framework”. P.6.

<sup>37</sup> Diamond, L. “Developing Democracy: Toward Consolidation.” Baltimore, the Johns Hopkins University Press. (1999), p.19.

<sup>38</sup> Linz, J.J. and Stephen, A. “Problem of Democratic Transition and Consolidation.” Baltimore, the Johns Hopkins University Press, (1999), p.14.

<sup>39</sup> Diamond, “Democracy, Development and Good Governance: The Inseparable Links. A Paper Delivered at the Maiden Annual Democracy and Governance, Ghana. Lecture of the Ghana Centre for Democratic Development (CDD), (March 1, 2005), p.2.

participation, responsiveness, transparency and accountability.<sup>40</sup> Only in a climate of true political and civil freedom can a country achieve the absolute fundamental condition for development: responsible government, that is, a government that is committed to the advancement of the public good, rather than the private interests of its own officials and their families and their cronies.<sup>41</sup>

Electoral participation is *sine qua non* to good governance. People at every level of public life must be involved in the decisions that affect their lives, in the setting of priorities for the expenditure of public funds and in the monitoring of implementation. Multiple, diverse mechanisms for public input can correct mistakes in policy design and implementation and promote social inclusion and political ownership of policies including painful economic reforms. It is also argued that institutionalised participation also provides channels for setting or at least narrowing conflicts over interests and values and for making broadly legitimate policy choices. Policies will be more likely to be stable and sustainable when they enjoy popular understanding and support, most especially when women and minorities have input into governmental decisions and also be provided with a mechanism through which unfavourable policies are contested and protested against.

Liberal democracy requires responsiveness of elected officials to the needs and concerns of society. Really, the government cannot respond fully to the interests of every group because, in any society, interests are always in conflict. But different groups must be heard. They must have access to legislative debates through public hearing or other means provided for public inputs. There must be regular means by which elected representatives go back and consult with their constituencies and explain the policies of the government to them. When there are multiple avenues for participation in policy –making and when there is strong freedom and competition, then, the government will be more responsive. Particularly, people in developing countries most of whom were needed for economic development and the physical improvement of their infrastructure and environments, responsive government will be a government that seeks and promotes economic development.

On its own, good governance depicts the degree to which institutions of a particular country such as legislature or judiciary and process such as the role of political parties in election are transparent, accountable to the people and allow them to freely participate in decisions that affect their lives. Good governance is when the authority of the government and sovereignty reside ultimately with the people and are responsive to them. Good governance means government and its institutions that “are pro-poor and promote the human development of all the citizens.”<sup>42</sup> A writer identifies three elements that distinguish democracy from other form of authoritarianism. According to him, he submits that the democratic process promotes individual and collective freedom; it promotes human development; the democratic process, though not perfect, is the best way by which people protect and advance their common interests and goods. Good governance enhances human development and human development is the pivot around which other developmental activities revolve. Human development must indeed democratize the process of decision making in a way to guarantee the involvement of the group in which decisions are being made. For example, poverty alleviation programmes can only be potent and sustained only if the affected group is involved at all levels of the decision making process.<sup>43</sup>

Democracy and governance promote sustainable development. Liberal and consolidated democracy, the one that is competitive, open, participatory and responsive provides a means for citizens to monitor and evaluate the performance of government and to

---

<sup>40</sup> Ibid.

<sup>41</sup> Cheema, S. G. and Maguire, L. “Democracy, Governance and Development: A Conceptual Framework.”

<sup>42</sup> Ibid.

<sup>43</sup> Robert, D. “Democracry and its Critics.” New Haven, Yale University Press, 1989.



remove officials and representatives who pursue personal gains rather than public interest. The institutions of good governance must be “funded, staffed, trained and equipped in a manner that will investigate, expose and punish corrupt conduct and thus vigorously discourage it in the future”.<sup>44</sup> Human development performance can be enhanced through enhancing the quality of democracy including the devolution and decentralization of power and resources, protection of human rights, removal of corruption and speeding up of justice.<sup>45</sup>

The triple concepts of rule of law, good governance and sustainable development have long eluded African continent. More than four decades after the attainment of independence, many African countries still grapple with the age long dreams of establishing an enduring democracy on African soil which will feature rule of law, good governance and eventually endearing sustainable development. Apart from few countries where the rule of law, good governance and sustainable development seem to have taken place in Africa, however, shallow, that dream remains a pipe one for many.<sup>46</sup>

It is obvious that good governance promotes accountability, transparency, efficiency and rule of law in public institutions at all levels, in addition, it allows for sound and efficient management of human, natural, economic and financial resources for equitable and sustainable development. Moreover, under good governance, there are clear decision-making procedures at all levels of public authorities, civil society, participation in the decision making process and the ability to enforce rights and obligations through legal mechanisms.<sup>47</sup> The rule of law, democracy and good governance are complemented and supported by corresponding social norms that guide and constrain the exercise of power as well as by more explicit norms including those that foster environmental commitment.<sup>48</sup> These aspects of good governance do not, themselves, ensure that society is run well nor do they guarantee sustainable development. However, their presence severely limits that possibility and can at worst, impede it. Without proper functioning institutions of governance such as judiciary based on the rule of law that promotes social stability and legal certainty, there cannot be an investment and assumption of risk that form the basis of development of market economy, let alone sustainable development. Indeed, the strength of the rule of law is the best predictor of a country’s economic success. Equally, deficiency in the rule of law encourages high rate of corruption with further devastating consequences on the confidence of economic actors. This lack of investment in turn, slows economic growth and consequently deprives the government of resources to invest in education, social safety nets and sound environmental management, all of which are critical for sustainable development.<sup>49</sup>

The introduction of good governance and the rule of law, however, cannot be done overnight. The process is often a gradual one, involving changes to long-standing practices, entrenched interests, cultural habits, and social and even religious norms. A significant step was taken in this endeavour in 1998 when countries adopted the Convention on Access to

<sup>44</sup> Diamond, Diamond, “Democracy, Development and Good Governance”.

<sup>45</sup> Cheema, S. G. and Maguire, L. “Democracy, Governance and Development: A Conceptual Framework.”

<sup>46</sup> Chuks, E.O. “Democracy and Good Governance in Africa”. (2010) <http://www.authorsden.com/visit/viewArticle.asp?id=739> accessed on 27th August, 2011.

<sup>47</sup> Richard, T. “The e-stern Review of the Economic of Climate Change: A comment. (November 2, 2006). <http://www.fnu.zmaw.delfileadmin/fnu-fils/report/sternreview.pdf>. accessed on 27<sup>th</sup> August, 2011.

<sup>48</sup> Paul, C.S. et al. “A Value –Belief Norm Theory of Support for Social Movement: The Case of Environmentalist.” (1999). *Human Ecology Review*. 6 (2) pp.81-97. See also Micheal, P.V. “Beyond Elegance: A Testable, Typology of Social Norm in Corporate Environmental Compliance.” (2002) *Stan Environmental Law Journal* 22 (2003), p.55.

<sup>49</sup> Derin, O. “The Law of Impeachment and Implications for Democracy in Nigeria.” (2007) Lai O. (ed) *Impeachment and Rule of Law, the Future of Democracy in Nigeria.*(Faculty of Social Sciences, University of Lagos. 200s7)

Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.<sup>50</sup> The Convention recognizes that sustainable development can only be achieved through the involvement of all stakeholders and seeks to promote greater transparency and accountability among government bodies by guaranteeing three pillars for the public: the rights of citizen access to information; citizen participation in decision making; and citizen access to justice in environmental matters. In other words, the Convention guarantees freedom of access to information on the environment, gives citizens a right to participate in environmental decision-making, and provides for recourse to judicial and administrative remedies when these rights are denied by state authorities. Moreover, in 2000, 191 United Nations member States pledged to fulfill a set of key goals (the Millennium Development Goals) for poverty reduction and sustainable development by the year 2015. In the Millennium Declaration, the member States agreed to “spare no effort to promote democracy and strengthen the rule of law, as well as respect for all internationally recognized human rights and fundamental freedoms, including the right to development.”<sup>51</sup> In addition to these international agreements by the heads of the States, donor agencies are making significant efforts to promote the rule of law and good governance throughout the world. The following section briefly describes these efforts.

#### 4. PROMOTION OF THE RULE OF LAW AND GOOD GOVERNANCE

The importance of the rule of law and good governance cannot be overemphasized, many donor agencies are actively supporting legal and judicial reforms, including judicial training, development of new laws and legal institutions, and capacity-building. For example, UNEP has convened several symposia for judges to facilitate judiciary communication, sharing of legal information, and harmonization of different approaches to the implementation of global and regional instruments.<sup>52</sup> One such symposium was the Global Judges Symposium on Sustainable Development and the Role of Law that UNEP organized by the International Network for Environmental Compliance and Enforcement (INECE) as a key partner in 2002. At the Symposium, the participants adopted the Johannesburg Principles on the Role of Law and Sustainable Development, in which they affirmed, among other things, “that an independent Judiciary and judicial process is vital for the implementation, development and enforcement of environmental law” and that “there is an urgent need to strengthen the capacity of judges, prosecutors, legislators and persons who play a critical role at national level in the process of implementation, development and enforcement of environmental law.”<sup>53</sup>

UNDP also has helped to promote good governance by focusing on the following six areas: Parliamentary development; assistance with electoral systems and processes; improvement of access to justice and human rights; promotion of access to information; support for decentralization and local governance; and reform of public administration and

---

<sup>50</sup> Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, (June 25, 1998). <<http://www.unece.org/evn/pp/treatytext.htm>>accessed on 21<sup>st</sup> March,2012. The convention came into force on October 31,2001 and has been ratified thus far by 33 countries

<sup>51</sup> United Nations Millennium Declaration, Res.55/2, (September 8, 2000). <<http://www.un.org/millennium/declaration/ares552e.pdf>>accessed on 21st March,2012.

<sup>52</sup> See UNEP, Judges Programme.

<[http://www.unep.org/DPD/Law/Programme\\_work/Judges\\_programme/inde.asp](http://www.unep.org/DPD/Law/Programme_work/Judges_programme/inde.asp)>accessed on 21<sup>st</sup> March, 2012.

<sup>53</sup> Johannesburg Principles on the role of Law and Sustainable Development, adopted at the Global Judges Symposium held in Johannesburg, South Africa, on (18-20 August, 2002).

civil service.<sup>54</sup> Financial institutions and other organizations have also made significant efforts to advance good governance and the rule of law. The World Bank, for example, has several legal and judicial development projects supporting law reform, court modernization, training of judges and court personnel, and legal education.<sup>55</sup>

In addition, institutions such as the Organisation for Economic Co-operation and Development (OECD) have worked to improve and reinforce the legal, judicial, and law enforcement systems.<sup>56</sup> For instance, on February 6-7, 2005, OECD and UNDP, along with the Arab League, the World Bank, the European Union, and a number of organizations working in the region, including those from the private sector and civil society, launched a major programme to promote good governance for development in the Arab region.<sup>57</sup> Called the “Good Governance for Development in the Arab Countries”, the program is designed to address the following six themes: 1) civil service and integrity; 2) the role of the judiciary and enforcement of judgments; 3) e-government, administrative simplification, and regulatory reform; 4) the role of civil society and media in the reform of the public sector; 5) the governance of public finance; and 6) the public service delivery and private-public partnership.<sup>58</sup>

## 5. COMPLIANCE AND ENFORCEMENT FOR SUSTAINABLE DEVELOPMENT

Despite a growing body of environmental law both at the national and international levels, environmental quality has been declining in many countries. Furthermore, even after more than ten years and hundreds of millions of dollars in aid, many judicial and legal systems in the world are still functioning poorly. One reason for these trends is the inadequate investment in enforcement and compliance efforts. The need to strengthen enforcement and compliance has been widely recognized. For example, the participants of the Rio Earth Summit in 1992 recognized this necessity in Chapter 8.21 of AGENDA 21, which established an international mandate to build compliance and enforcement capacity as an essential element of environmental management.<sup>59</sup> Agenda 21 also empowered UNEP and other organizations to more actively support compliance and enforcement activities, including capacity building.

Moreover, UNEP Executive Director Toepfer has recently highlighted the importance of enforcement and compliance: We all have a duty to do whatever we can to restore respect for the rule of law, which is the foundation for a fair and sustainable society... Sustainable development cannot be achieved unless the laws governing society, the economy, and our relationship with the Earth – both international and domestic – are put into practice and connect with our deepest values. Laws must be enforced and complied with

<sup>54</sup> UNDP, Promoting Democracy through Reform. <http://www.undp.org/governance/index.htm>. For other examples of UNDP’s efforts, see Ramaswamy Sudarshan, Rule of Law and Access to Justice: Perspectives from UNDP Experience, 7-9. <<http://www.undp.org/oslocentre/access.htm> accessed on 21st March, 2012.

<sup>55</sup> The World Bank Group, Annual Report, 2002, Theme: Promoting Rule of Law. <http://www.worldbank.org/annualreport/2002/chap0406.htm> accessed on 21<sup>st</sup> March, 2012.

<sup>56</sup> Final Report of the Ad Hoc Working Group, p.6.

<sup>57</sup> Organisation of Economic Co-operation and Development, OECD to join Arab States in Launching ‘Good Governance for Development’ Programme, February 2, 2005. [http://www.oecd.org/document/36/0,2340,ec\\_2649\\_201185\\_34368484\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/36/0,2340,ec_2649_201185_34368484_1_1_1_1,00.html) accessed on 22<sup>nd</sup> March, 2012.

<sup>58</sup> Declaration of the Initiative on Good Governance for Development in the Arab Countries, February, 6-7, 2005. <http://www.oecd.org/dataoecd/15/12/34425871.pdf> accessed on 22<sup>nd</sup> March, 2012.

<sup>59</sup> Agenda 21, 8.12.

<http://www.un.org/esa/sustdev/documents/agenda21/english/agenda21chapter8.htm> accessed on 22<sup>nd</sup> March, 2012.

by all in a given society, and the society must share this obligation.<sup>60</sup> Various institutions' efforts, including those mentioned above, are helping advance rule of law and good governance.

However, it is insufficient to point out a legal obligation and to invest in institutional reforms if the culture of law compliance has not replaced the culture of corruption. In other words, if the countries receiving the aid do not work to make the internal changes and do not actually implement the legal and judicial reforms, their legal and judicial systems will continue to struggle to improve, their economic development will continue to falter, and there will be no progress towards sustainable development.

Therefore, the donor agencies need to focus more on those reforms aimed at the deeper goal of increasing governments' compliance with the laws. This requires tools that empower citizens to participate in governance, including access to justice, with opportunities to pressure the judicial and legal systems. It is increasingly recognized that the fundamental changes that are needed for the effectiveness of the rule of law and sustainable development require the support and commitment of the key people within the system, and this core group needs to be given enabling assistance to help build the essential internal political which these reforms require. Donor assistance is critical, but so is the will to reform, which must be fostered from within. The international community is already beginning to move in this direction. For example, as noted, the Aarhus Convention guarantees the rights of access to information, public participation in decision making, and access to justice in environmental matters. These rights empower citizens to ensure that environmental laws are properly enforced and complied with. On the capacity building front, institutions such as UNEP, the Global Environmental Facility, and the United Nations Economic Council for Europe (UNECE) have produced guidelines to facilitate implementation and compliance with certain multilateral environmental agreements (MEAs).<sup>61</sup> The UNEP Guidelines, for instance, highlight several compliance assistance strategies, including sharing experiences, evaluating the effectiveness of technology transfer, and drafting model legislation. In addition, public agencies and researchers have begun collecting empirical data to analyze the effectiveness of different policies and strategies in inducing compliance with various environmental regulations. For instance Oran Young, Helmut Breitmeier, Michael Zürn, and others have created the International Regimes Database to empirically analyze 23 MEAs.<sup>62</sup> However, the empirical literature on environmental enforcement is still fairly sparse, due to the difficulty of obtaining reliable empirical information about the compliance of particular regulated entities.<sup>63</sup>

There is a great need for more well-functioning, reliable, and comprehensive data gathering systems. NGOs and various international networks, including INECE can play an important role in gathering and validating information for such systems.

---

<sup>60</sup> Making Law Work: Environmental Compliance and Sustainable Development, Preface(Zaelke, Durwood, Kaniaru, Donald &Kru Zikova, Eva ed., 2005).

<http://www.inece.org/conference/7/vol.1/05sachikoZaelke.pdf> accessed on 21<sup>st</sup> March, 2012.

<sup>61</sup> See Mrema, Elizabeth and Bruch, Carl, UNEP Guidelines and Manual on Compliance with Enforcement of Multilateral Environmental Agreements (MEANS), 7<sup>th</sup> INECE Conference Proceeding (2005).

<sup>62</sup> Breitmeier Helmut, R. Young, Oran & Zurn, Micheal, Analysing International Environmental Regimes: From Case Study to Database, Chpater 6 (forthcoming 2005). The IRD contains information for more than 50 states and the European Union. Id. At Chapter 2, 33. The Ird include 23 regimes: Antarctic, Baltic Sea, Barents Sea Fisheries, Biodiversity, CITIES, Climate Change, Danube River Protection, Desertification, Great Lakes Management, Hazardous Waste, Inter-AmericanTropical Tuna Convention, Conservation of Atlantic Tunas, International Regulation of Whaling, London Convention, ECE Long-Range Transboundary Air Pollution, North Sea, Oil Pollution, Protection of the Rhine Against Pollution, Ramsar (Wetlands), Protection of Black Sea, South Pacific Fisheries Forum Agency, Stratospheric Ozone, and Tropical Timber Trade. Id. At 19-21.

<sup>63</sup>Ibid.

With better coordination and increased support, all of these efforts, those addressing the rule of law and good governance issues, environmental compliance assistance, and empirical data collection and analysis – will help expedite progress towards sustainable development.

## 6. ENABLING LEGAL AND REGULATORY FRAMEWORK FOR SUSTAINABLE DEVELOPMENT

An enabling legal and regulatory framework is one in which laws and regulations are clear, transparent and applied uniformly and in a timely manner by an objective and independent judiciary. Where legal systems are weak and the application of law is uncertain and /or enforcement is arbitrary, they tend to distort economic transaction, foster rent-seeking activities and discourages private capital flows, all of which undermine sustainable development. Where adherence to rule of law is weak, security of private property is also weak and investment prospects are low.<sup>64</sup> An enabling legal and regulatory framework is a key requisite for sustainable development in many ways. Most essentially, it provides the minimum basis for creating rule-bound states, governments, private sectors and civil societies.

It is colossal for reducing official arbitrariness, uncertainty in the transactions with governments and individuals and transaction costs as well as for promoting private investment. It also enhances the reliability and enforcement of contracts as well as discipline on the part of governments, markets and citizens. Effective legal and regulatory frameworks are momentous for other reasons. They underpin the creation, empowerment and sustenance of what are called “agencies of restraint”<sup>65</sup> and other call agencies of “horizontal accountability.”<sup>66</sup> Such agencies like independent Central Banks audit agencies, *ombudsman’s* offices, parliament and anti-corruption agencies are important for promoting and protecting public assets from depletion and socially vulnerable group from exploitation. They are also necessary for preventing corruption and enforcing contracts. For such agencies to function effectively, they must be protected from the pressures they are designed to hold in check. They must be autonomous centers of power.

The post colonial period has seen the neglect and sometimes deliberate attempts by governments to weaken such institutions. Emphasis has tended to be placed on patriotism and nationalism. Thus, the head of state does the right thing because he is a nationalist or patriot). In recent times, where such agencies have been recreated, they have been created because the World Bank, IMF and other powerful external agencies demanded them. Policy conditionalities and the presence of expatriates in Central Bank, Finance Ministers and audit agencies are manifestations of this phenomenon. The new governance agenda calls on Africans to take ownership of the sub-project of reviving, empowering and sustaining their own “agencies of restraint.” This must be done not because it is the IMF and World Bank conditionality but because, it is necessary. It helps to reduce reliance on “voluntaristic” and therefore unstable form of self-regulation and self-accounting such as nationalism and patriotism<sup>67</sup>. Of course, agencies of restraint become stronger and more sustainable when

<sup>64</sup> “Governance, Democracy and Development in Africa: A Cultural Approach” Presented by The Ghana Centre for Democratic Development (CDD-Ghana) at the International Conference on the Cultural Approach to Development and Planning IDEP, at Dakar, Senegal, 10-14, December, 2001. <<http://www.uneca.org/itca/governance/documents/goverdemoc&devculturrapproach.pdf>> accessed on 21<sup>st</sup> March, 2012.

<sup>65</sup> Collier, P. “Africa’s External Economic Relations 1960-1990.” In Douglas Rimmer Africa: 30 years on London Heinemann, 1991, pp.155-168.

<sup>66</sup> O’Donnell, G. “Horizontal Accountability in New Democracies.” IN The Self Restraining State: Power and Accountability in New Democracies. Andreas Schedler, Larry Diamond and Marc Plattner eds. Lynne Rienner Publishers. (1999), pp.29-52.

<sup>67</sup> See Ekeh, P. “Colonialism and the Politics in Africa” Comparative Studies in History and Society 17:1 (1975), pp91-112.

they are anchored in the constitution and/or legislation and form part of a transparent regulatory framework. This alone makes constitutional rule and constitutionalism very important to the good governance agenda, especially when it entrenches checks and balances and protects the independence of the judiciary, central banks, audit offices and ombudsman's office and place appropriate limitations on executive power.<sup>68</sup>

A review of the affairs of state in most African countries will confirm clearly that such restraints are obviously required in Africa so that national development is not compromised so badly as officials collect billions of dollars from the central bank with very little papers traced, the Governor is unable to resist the raid other than to note the transaction while the money is expended on dubious and unspecified national assignments. They are also necessary so that the president of a country cannot hold his/her entire appointed public service hostage and dismiss them on the frivolous grounds of failure to attend a prayer breakfast.

## 7. CHALLENGES OF SUSTAINABLE DEVELOPMENT

There are many challenges confronting national or sustainable development in Africa. Fundamentally, corruption is of course unique and complex universal problem. Its net effect is commonly regarded as negative for all societies, especially developing countries. It leads to economic inefficiencies, distorts development, inhibits long-term foreign and domestic investments; misallocates talents to rent seeking and away from productive activities; induce wrong sectoral priorities and technological choices. It also undermines state effectiveness in the delivery of services and the protection of the vulnerable diseases and the environment. Corruption promotes economic decay, social and political instability, perverts the ability of the state to foster the rule of law and eventually corrodes and undermines legitimacy. This cost means that sustained African development requires mounting a frontal attack on corruption. In fact, corruption is highly rewarding for those who engage in it. Therefore, the creation and sustenance of a low corrupting environment require the establishment of effective mechanisms of discovery and punishment.

An institutional framework conducive in fighting corruption must promote easy oversight, assessment of wrongdoing and punishment for those convicted of wrongdoing. Also essentials are the institutions established to oversee, expose and punish corrupt officers. They must be insulated from the very actors they are supposed to be controlling.<sup>69</sup> Here too, we must put in place institutions to be responsible for preventing, detecting and punishing corruption instead of relying on individual morality. Because of its complexity and multifaceted nature, combating organised corruption requires partnership and collaboration among public agencies, private sectors and civil societies including the media.<sup>70</sup> Maximum effectiveness and sustainable development is possible only when the existing laws and regulations are supportive and transparent.

Another challenge is military intervention. Unconstitutional governments in Africa started in 1963 when Hubert Maga of Dahomey, (now Benin) was removed from power through a coup de'tat. As of 2002, nearly all countries in Africa had gone through this experience with Ghana, Nigeria and Benin are topping the list with five successful coup attempts each. On the whole, not less than 25 violent successful coup de'tats have taken

---

<sup>68</sup> See Sarbah, J.M. "Fanti National Constitution." London; Williams Clowes and Sons. (1987)

<sup>69</sup> Diamond, L. "Controlling Endemic Corruption." Unpublished Paper, Presented to World Bank, (1998). <http://www.uneca.org/itca/governance/documents/goverdemoc&devculturalapproach.pdf> accessed on 21st March, 2012.

<sup>70</sup> Langseth, P. et al, "National Integrity Systems." In Rick Stapenhurst and Sahr Kpundeh, eds. *Curbing Corruption: Toward a Model for Building National Integrity*. Washington DC: World Bank. (1999).

place in African countries in 1963.<sup>71</sup> Coups have only added to the economic woes of the continent, as investors are not prepared to invest money where there is no rule of law and their investment cannot be guaranteed or secured. The military leaders themselves pay no attention to the development of their countries as precious time is spent chasing imagined enemies of the government at the expense of development. Military incursion into politics has thus led to underdevelopment and loss of precious human resources. Leaders of previous regimes who could serve as opinion leaders and elder statesmen are sometimes killed on a large scale after the fall of a particular regime. The mass killings in Ghana and Liberia after the successful coup de'tats of Flight Lieutenant Jerry Rawlings and Master Sergeant Samuel Doe respectively still haunt the continent.<sup>72</sup>

The gradual return to constitutional rule may become a source of respite for Africa. However, the legacy of the military culture may remain a serious issue to contend with. Understandably, many arrangements of constitutional governments were put in place to satisfy the demands of the international community. This process that became popular in the mid – eighties saw Liberia and Ghana transiting to civil rule. The transformation of these countries was not without problems, as many of them were stage-managed. Liberia, for example, gradually crept back into anarchy.

According to Ali Mazuri, boredom in the barracks has been responsible for a lot of military incursion into politics in Africa.<sup>73</sup> When the government of Philippines successfully suppressed a military revolt; the United States of America President, George Bush advised the country to keep her military busy. According to him, “democratic infrastructure in the third world is too fragile to allow the custodians of the means of destruction to remain idle.”<sup>74</sup> This advice applies to most countries in Africa. Indeed, the majority of African countries has long been affected by instability arising from military adventurism and should heed this warning. The Armed Forces of member states should be utilized in certain specialist duties. Most technological breakthrough started as defence projects. The internet, for example, which has become the information super way started as a military project in the United States.<sup>75</sup>

The Emergency Autonomous Transfusion (EAT) set is basically a device for recycling a patient's blood for re-use during a surgical operation. Gen. Ovadje of the Nigerian Army invented this when he took into account the peculiar situations soldiers find themselves. The device is particularly useful as the individual's blood is reused in this era of HIV/AIDs.<sup>76</sup> The Army Corps of Engineers can actively be involved in civil construction works while vibrant result oriented research and development could be encouraged just the way the United States used her army for complex projects for civil populace. This wonderful practice could be gainfully occupied African forces and thus forestall the dreaded practice of truncating constitutional governments through coups and counter coups, if the United Nations concept can be well planned and implemented.

The third challenge is Poor Democratic Governance. Peaceful power succession has been described as the highest index of human development and civilization. Whereas it takes a simple process to institute, elect or replace a leader in the developed nations of the world, such processes require guns and tanks in many underdeveloped countries.<sup>77</sup> This may partly

<sup>71</sup> BCC, Focus on Africa Magazine, October-December, 1999, P.9.

<sup>72</sup> Ibid.

<sup>73</sup> ALI Mazuri, “Africa: A Triple Heritage.” Visual Document, 1989. P.12.

<sup>74</sup> Hamman, Maj, I.A. “Conflict Resolution in West Africa Sub-Region.” Paper Submitted to the Armed Forces Command and Staff College, Jaji, Nigeria in Partial Fulfillment of the Requirements for the Award of Pass Staff College (psc), March, 2006. P.34.

<sup>75</sup> Khobe, M.M. “Boundaries of Peace Support Operations.” Monograph No.44, February, 2000, P.17.

<sup>76</sup> Ibid.

<sup>77</sup> Sesay, Amadu, “Paradise Lost and Regained-The Travails of Democracy in Sierra Leone.” (Danish Publishers, 1999, P.39

explain the inability of peaceful power succession in Africa which has always led to political crises. The perennial economic crises in Africa are consequence of political crises which manifests itself in a dictatorship, lack of accountability, lack of respect for the rule of law and poor governance. Political leadership in the African continent is characterized by disregard for the yearnings of the people and a violation of the constitution they swear to defend. The African leaders have come to mistake the state as personal property. In the quest to remain in power at all cost, all forms of manipulations are employed.<sup>78</sup>

This may include manipulation of ethnic differences, religious and Political yearnings. In pursuance of selfish agenda, nothing is spared as long as the aim is achieved. The art of self succession is common Africa except in some isolated cases. Though examples abound, few scenarios can be as apt as the manipulation of power in Africa by the late Gnesingba Eyadema of Togo. After a successful coup in January 1967, he assumed power as the president and minister of defence in April of the same year. In December 1979, he promulgated a new constitution that gave him an undue advantage over his political opponents and he was unanimously reelected. The populace fought back in vain. French forces suppressed coup attempts against him and he was reelected for another seven years in December 1986. Eventually, Eyadema died in early 2005 as the longest serving leader in Africa after being president for 38 years.<sup>79</sup>

More so, Conflicts (intra and interstates). Intra – and – inter- state conflicts have been Africa’s most common source of insecurity and loss of lives for several decades as a result of bad governance and lack of respect for the rule of law. The pattern of intra - state boundaries, ethno-linguistic difference, religious intolerance and a winner – takes - all political culture is responsible for the various conflicts in the continent. Notable conflicts on the continent are the Liberian civil war (1989 – 1997) and the Sierra Leonean crises (1990 – 2001). At present, there are varying degrees of disturbances in Parts of Guinea Bissau, Cote D’Ivoire, Sudan, Egypt Senegal, Nigeria, and Niger. These conflicts have led to death, wanton destruction of property, displacement of entire populations and dislocation of social groups, thereby hampering sustainable peace in the continent.<sup>80</sup>

Furthermore, Terrorism has been hindering sustainable development in Africa. Terrorism has been defined as “The use or threat of influence to intimidate or cause panic especially as a means of affecting political conduct.”<sup>81</sup> The use of violent and intimidating methods to influence the government or the community for idiosyncratic, criminal or political reasons, terrorism is one of the security concerns in Africa. Nigeria has recorded 2 aircraft hijacks since independence (1967 and 1993) and is now faced with Boko Haram Challenges in the northern part.<sup>82</sup> Other threats at the airports in the Africa are illegal immigrants, drug trafficking, touting, stealing, and the pilfering of fuel stores and sabotage of aircraft. These security lapses constitute a danger to local and international flights in the sub region, thereby affecting trade and economic activities. In 2002, Air Afrique, an airline belonging to some francophone countries and France folded up because business was not viable in the region among other reasons. The terrorist threats in the sub region need to be fought for integration to be enhanced within the community.

The Niger Delta region of Nigeria is an unstable area where inter - ethnic clashes are common - often access to oil revenue has been the trigger for the violence. Pipelines are regulatory vandalized by impoverished residents who risk their life to siphon off fuel. There is an inevitable and a serious conflict of interest between delta communities that bear the

<sup>78</sup> See Generally Diamond, L. “Democracy, Development and Good Governance: Centre for Democratic The Inseparable Links.” A Paper Delivered at the Maiden Annual Democracy and Governance, Ghana Centre for Democratic Development (CDD), 2005.

<sup>79</sup> <http://en.wikipedia.org/wiki/Togo>. Accessed on 28/12/2010.

<sup>80</sup> Ibid, P. 81.

<sup>81</sup> Garner, A. B. “Black’s Law Dictionary.” 8 Edition, (2004), pp.1512-1513

<sup>82</sup> Ibid.



environmental damage of oil extraction and the rest of the nation for which oil money is essentially a free good. As such there is a deep distrust in the Niger delta concerning the federal government and a feeling among local populations that result of these factors, and because oil companies do make tempting targets, many aggrieved youths in the delta result to direct action to extract compensation for their perceived losses. They invade oil company properties, take employee hostage, and shut down facilities. Oil Companies typically negotiate release of captured personnel and properties with relative ease by paying the youth modest ransoms. These unfortunate strategies by the oil companies create a “moral hazard”. Generally, the unbridled willingness by most of the companies operating in this underdeveloped region to pay ransoms serve to stimulate initiators of this nefarious business leading to sustained disruptions; at times in competition among the uneducated and unemployed youths of the area, and to the general sense of anarchy in the delta.<sup>83</sup>

In January 2006, a new militant group, the Movement for the emancipation of the Niger Delta (MEND) entered the fray. MEND’s first significant act was an attack on Italy’s Eni SPA petroleum company. The deaths of nine Eni officials forced the company to evacuate its staff and contractors from that area. Along the further kidnappings and other withdrawal of Shell oil workers, it was estimated that the instability had resulted in a 10 percent drop in Nigerian oil production.<sup>84</sup> Consequently, various terrorist groups have come into the limelight to show their grievances and take their fair share of the “federal cake”. This poses a serious threat to sustainable peace in Nigeria and the sub region as a whole.<sup>85</sup>

The last challenge to be examined is Poverty. One of the serious hindrances of effective integration in Africa is poverty. That is, the condition of being indigent, the scarcity of the means of subsistence.<sup>86</sup> The assessment of poverty is based on human indicators of longevity and good health, learning, economic means and participation of social life. According to the 2001 World Human Development Report, poverty ranges from 3.9 percent level of the Uruguayan population of the 64.7 percent of the population in Niger. The states of Mali, Guinea Bissau, Burkina Faso, Niger and Sierra Leone are the world’s poorest countries. More than half of the African population live in abject poverty. In the 1980s, many Ghanaian migrated to Nigeria in search of jobs but were forced to return home by the then Nigerian government. That act affected bilateral relations between the two nations and hindered cooperation in the community. This poverty situation needs to be redressed for integration to be effective.<sup>87</sup>

## 8. CONCLUSION

It is conceded that the rule of law and good governance are premises for obtaining sustainable development goals. Various institutions have been initiated for the purpose of ensuring the rule of law, democracy and good governance throughout the world and considerable progress over the years have been made. In spite of all these efforts and growing numbers of laws and regulations, there is need for compliance of the apparatus put in place to overcome the challenges of underdevelopment in our countries and our leaders need to be re-orientated on the need to fight seriously against corruption.

It is apparent that while many factors play prominent role in development, good governance is now recognized as playing an essential role in the advancement of sustainable development in regulating the effect of human negative activities resulting in lack of rule of

<sup>83</sup> Ibid.

<sup>84</sup> Albara, E.M., “Nigeria and International Terrorism”, a lecture delivered at 195 Battalion, Nigerian Army Officers Training Week, December, 2001.

<sup>85</sup> Ibid.

<sup>86</sup> Garner, A. B. Black’s Law Dictionary, 8<sup>th</sup> Edition, West Publishing CO; USA, 1990, P.1207.

<sup>87</sup> Theobald, R., “Corruption, Development and Underdevelopment.” (Basingstoke: Macmillan, 1999, P.130).

law, democracy and good governance. Therefore, this paper has successfully examined some meanings of the term rule of law, good governance, democracy and sustainable development, the nexus between good governance and democracy and delicate borderlines among the rule of law, good governance and sustainable development. The paper further discusses on how to promote the rule of law and good governance and highlights some mechanisms put in place to accomplish the promotion of the rule of law and good governance.