

***Environmental Justice and Sustainability: Evaluating the Built Environment
Professional Practices in the Nigerian Context***

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The European Conference on Sustainability, Energy & the Environment 2016
Official Conference Proceedings

Abstract

Elsewhere environmental justice and sustainability goals have been mainstreamed, guided and enforced by sustainable developmental practices and policy implementations. Furthermore, environmental justice plays a major role in; conceptualizations, planning and operations that promote sustainability particularly in the urban built environments. This study highlights the importance of incorporating environmental justice into environmental sustainability operations. Findings from this discourse suggest that in the Nigerian context, environmental justice is yet to be conceptualized. As such, the concept of environmental justice is non-operational amongst the built environment sector professionals. Yet, earlier researchers have identified the sector as the lead for achieving environmental sustainability. Thus, this study concludes by suggesting; a redefinition of the environmental law, the need to incorporate environmental justice concerns by the government and for the built environment professional institutions to enshrine and guide professional practice operations within the sector in order to control the practices of its members.

Keywords: built environment; environmental justice; Nigeria; sustainability

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Introduction

Environmental law and justice are international strategies for actualising environmental sustainability in all developments. Sustainable development is a term that was promoted by the Brundtland Report (WCED, 1987), this report shaped the world outlook towards all developmental strides guided by the three concepts; environmental growth, economic models and social well-being without depriving the future generations' development. These guided principles channel all the processes of any development particularly for the environment, in order that any development becomes mindful of its impacts the environment and the future generations. This background underpins the emergence of environmental law and development.

Since 1972 when the first UN Conference on the human environment was held in Stockholm, environmental concerns became a matter for policy and law internationally. Implementing Sustainable Development (SD) responsibly is a requirement for environmental justice through operations of governance at national and international levels. This study presents a review on the subject of study as the first part of a two parts study, the later is proposed to present an inductive enquiry amongst the built environment professionals within the same research context.

The overall aim of the study is to promote the synergy between environmental justice and environmental sustainability as an essential strategy for enhancing and ensuring SD practices amongst the built environment professional practices in the Nigerian context. Although environmental justice and sustainability is the subject, the underpinning perspective to the discourse is the environmental law. This is because the environmental law is the premise and central to resolving environmental justice.

This study is presented in six sections. Preceding this introduction is the second section which presents a discourse on the environmental law and justice. The third section deals with the study's context. Whilst the fourth section gives a brief on the built environment and its professionals and the fifth section discusses the need for mainstreaming of environmental law and justice. The last section highlights and discusses the theoretical contextual premise in general and particularly to Nigeria. The conclusion recalls this study's focus and reiterates the importance of towards achieving environmental sustainability and justice through an integrative synergy of practices within the built environment.

The environmental law and justice

It was at the United Nations Conference on Sustainable Development (Rio + 20), held at Rio de Janeiro, Brazil June, 2012, that the Rio + 20 Declaration "The Future We Want" was declared. This declaration is the international seal that emphasise the importance of the synergy for environmental law and justice. During the world congress on justice, governance and law for environmental sustainability, it was also agreed that at that point very little has been achieved in the adjudication of environmental justice and that also the development of new concepts and approaches were needed (Benjamin, 2012).

On the other hand Steiner (2012) notes that there are efforts made by the international organisations and some governments but also stated that there remains "a significant gap

between humanity efforts and the reality of its impacts on the earth (environment).” Steiner observed that despite the negative impacts of climate change and the exponential growth production activities which destroy the environment, yet the discourse on SD is treated with scepticism. Furthermore, Steiner notes that the 2012 world congress is an avenue for stakeholders to share experiences and to draw up policies that are proactive in order to correct, shape and implement the present environmental sustainability for the future.

This study argues that both Benjamin (2012) and Steiner (2012) opinions are tenable and important but there is need for some realignment, firstly with the definition and understanding of what the environmental law represents. Secondly, is to ascertain its intentions and relationship with environmental justice.

Environmental law is one of the multidisciplinary courses in an academic setting. It has also been viewed as a strategy for protecting the environment. According to UNEP (2016, p.3), *“Environmental law is essential for the protection of natural resources and ecosystems and reflects our best hope for the future.”* Going by this premise, environmental law seem to be salient or excludes the built environment.

The environmental law emanated from the United Nations Environmental Programme (UNEP) and the world summit on SD held in Johannesburg in 2002. This was affirmed by both the congresses held in Kuala Lumpur in 2011 and Buenos Aires, Argentina in 2012 and according to UNEP’s Report, the environmental law - *“Emphasizing the importance of societies based on the rule of law and standards of transparency and accountability.”* The Report also notes that the environmental law was also intended amongst other things to also promote *“... a lasting effect on improving social justice, environmental governance and the further development of environmental law, especially in developing countries.”* What then is environmental justice?

Environmental justice *“Is the fair treatment and meaningful involvement of all people, regardless of race, colour, national origin, or income with respect to the development, implementation and enforcement of **environmental laws**, regulations and policies.”* US Environmental Protection Agency (EPA), 2016, p. 1.

Although it is apparent that environmental law and justice are components of ensuring environmental sustainability, the environment is incomplete without the built environment – which serves as the domain of humans which the environmental law and justice seeks to improve.

Altogether, environmental law protects the environment, environmental justice advocates for environmental sustainable practices within the law. This study argues that, these two components of environmental sustainability have not been clearly included the built environment and hence, created a gap that this study seeks to address. Although the environmental law is geared towards protecting the natural environmental, environmental justice deals with enforcements and the control on the human societies and activities. How then would the practices within the built environment and the practitioners be treated fairly when the law is not all encompassing?

Some developed economies have successfully mainstreamed environmental laws and justice in their developmental strides. Brazil, Argentina, Peru, South Africa, and a few

other developing economies were also identified as the developing countries that were able to mainstream environmental law and justice. In their study Monno and Conte (2015) notes that design, planning, implementation of environmental development practices are guided by SD processes in order to achieve urban environmental sustainability and yet it is still elusive. They however, suggested the integration of environmental dimensions amongst other approaches. For the Nigerian context attempts towards environmental sustainability seem to rest squarely on the definition of the environmental law and thus, no known regulations or guide is provided for the built environment. In order to further the direction of this study's argument for the clear inclusion of the built environment sector, the sector is briefly discussed.

Environmental sustainability, built environment and its professionals – a brief

Amongst the limiting factors for achieving environmental sustainability climate change is foremost. Climate change is caused largely due to the unsustainable human activities on the environment and particularly by the built environment. These have been acknowledged by earlier researchers (IIPC, 2007; Ogbonna and Allu, 2011; Pyke et al, 2012; Ebohon et al., 2013; Allu, 2014). Again the built environment is noted to be the major contributor to carbon emissions leading to climate change (Altomonte, 2008; Janda, 2011) this is even more so in the developing economies like Nigeria (OECD, 2011; Allu, 2014).

The built environment is a part of the environment. It constitutes the man-made surroundings and the supporting infrastructures and represents a significant part of the natural environment. *"The built environment is made up of existing and newly constructed buildings including the man-made surroundings such as green and blue spaces."* Scotland's Climate Change Adaptation Framework (2011), p. 1. Consequently, strategies employed to promote sustainable practices within the built environment sector would also largely promote environmental sustainability. Furthermore, the built environment sector and the practices of its professionals is a key factor to achieving environmental sustainability (Alkadiri et al, 2012; Allu, 2014). The professionals who are involved with the built environment developmental practices include; architects (design landscape, interior), building engineers, planners, structural engineers, surveyors and other relevant information technologies (WBDG, 2012).

Therefore, it is without question that in order to achieve environmental sustainability these professionals need to be involved in sustainable actions and implementations (Sherman and Ford 2013; Allu and Ebohon, 2015). According to Pillay (2012) in reference to environmental law, and justice relation to human right suggested that the closest essential component to human right is health and a healthy environment. There cannot be a healthy environment without sustainable practices within the built environment. Additionally, earlier studies have positioned the built environment sector as the most potentially and key to achieving environmental sustainability (Butt, 2010; Akadiri et al., 2012; Allu et al., 2013; Allu, 2014). This study therefore aligns its arguments with the conclusion of Kibert (2016) who opined that the only route to ascertain the future of sustainability is to ensure the sustainability of the built environment. In order to evaluate the practices of the built environment professionals, their practice domain needs to be presented.

The study's context

Nigeria is developing Sub-Saharan African country, the most populace black nation and has a very active construction sector. In Nigeria the ‘construction sector’ the most significant activity in the built environment many times the term is used interchangeably with the built environment (Allu, 2014). Environmental law in Nigeria was formulated specifically to guide and control issues relating to the natural environmental (Eneh, 2011; Eneh and Agbazue 2011). Before the formulation of the law in 1988, there was an environmental act which only deals with sanitation (Otu, 2010; Iyanya and Joseph 2014). The first law formulated as a result of dumping of toxic waste (3,888 tonnes) at Koko Port, Lagos State from Italy. Subsequently, the first environmental governance commenced (Ibrahim and Imam, 2015). The Nigerian environmental law according to Eneh and Agbazue (2011) was formulated to implement the following:

- i. To control the various environmental pollutions that include; toxins, other chemicals and noise.
- ii. To control the activities of mining, power generation, and
- iii. To provide in general terms the protection of natural environment (air, land and water)

Over time seven (7) national environmental law enforcement agencies were also established and are summarised in Tables 1 which has revealed that like the underpinning reasons for the Nigerian environmental none of these eight agencies has the mandate to oversee the practices of the built environment. Furthermore, out of these eight national 27 environmental regulations emerged and 13 national guidelines and standards were also formulated, which have been observed to sometimes have overlap functions.

Table 1 Nigeria’s national environmental laws enforcements agencies

s/n	Agency	Responsibility	Year
1	Environmental Impact Assessment (EIA)	Set out to the general principles, procedures, methods of environmental assessment issues	2004
2	Endangered Species Act	Protects the conservation and management of Nigeria’s wild life and endangered species	2004
3	Harmful Waste Act	To prohibit carrying, depositing and dumping of harmful waste on land and territorial waters of Nigeria	2004
4	National Park Service Act	Makes provisions for the conservation and protection of national resources and plants	2004
5	Water Resources Act	To promote the optimum development, protection and use of Nigeria’s water resources	2004
6	National Oil Spill Detection and Response Agency (NOSDRA)	Establish to ensure the implementation of the blue print developed to control oil spillage	2006
7	Nigeria Mining and Mineral Act	To regulate all aspects of solid mineral resources and other related matters	2007

Sources: Author's arrangement from Eneh and Agbazue (2011) and Ibrahim and Imam (2015).

Many of the environmental law support agencies are further duplicated at states and local governments (Eneh and Agbazue, 2011). In 2007, the National Environmental Standards and Regulations Enforcement Agency (NESREA) was formulated as the overall agency backed by law for the protection and development of technologies, policies, research, compliance, set standards, public investigations, monitoring of all aspects of environmental.

Notably also in the Nigerian context governance is the provision of environmental justice which lays with the Police who are engaged with issuance of search warrants and the Judiciary which is saddled with the enforcement mechanism and persecution (Eneh and Agbazue; 2011). The question here is can these two bodies effectively enforce sustainable practices in the built environment sector? Hence, the need for the professionals to be involved in the processes of compliance and enforcement strategies.

As much as the effort by the Nigerian government to comply with environmental law and justice is noted, it is obvious that the face value definition of this international law played a major role in misinformation as to what an environmental encompasses as a whole. It is also worth noting that the interpreters did not also think outside the box.

How then can the practices of the built environment professionals be evaluated? Tosun and Knill (2009) and Walker (2010) have noted that evaluation does not always match environmental and social justice both in theory and practice. On one hand Gay (2010) suggests that practices can only be measured by their sustainable performance. On the other however, Shariff and Murayama (2013) notion that measurement can be achieved only through assessment tools. This study aligns with the later study given the Nigerian scenario.

Mainstreaming environmental law and justice

Environmental law and justice need to be synergised to achieve environmental sustainability at all levels. Environmental law need the sound processes of justice are components of achieving environmental sustainability as noted in the preceding sections. The two actions can therefore not have much value when treated as standalone strategies. From the Brundtland Report (1987) definition it deducible to suggest that operating the sustainability mandate would require "both intergenerational and intragenerational equity" (Kibert et al, 2010, p.11) and thus, making sustainable justice for environmental sustainability an ethical pursuits. In agreement Amantova-Salmane (2015) opined that sustainability can only be achieved through ethical dimensions in its operations. These suggestions further advance the need to mainstream by environmental law and justice in Nigeria in accordance with the Rio + 20 Declaration.

Mainstreaming environmental law and justice is attainable in Nigeria. Through the engagement of citizens and governments in the environment law and justice discourse (Steiner, 2012). The position of this study therein, is to engage the active participation of all stakeholders and governance is necessary for the achievement of holistic environment sustainability. The summation of Coote (2014) caps all "*We can't have social justice without environmental sustainability.*"

Discussion

In this study the discourse of environmental justice and sustainability lies in how the understanding of environmental law precedes how practices may be subjected to ethical issues. The Nigerian scenario on the built environment clearly shows that the environmental law operatives have undoubtedly overlooked the practices within the built environment sector. This is despite the fact that, the sector is an active economy and known to largely contribute to the cause climate change. Even though research has proved that climate change is the greatest challenge to achieving environmental sustainability. However, in the discourse and the underpinning reasoning suggest that, the limitation in the definition or and the incorrect interpretation of environmental law is evident in Nigeria. Thus, by implication the situation has created an uncertainty on the sustainable practices and viz a viz the moral right and ethical considerations for sustainable justice in Nigeria. Notably, similar economies were noted to have recorded some success stories even though these countries are operating with the same definition of environmental law.

For these uncovered reasons this study questions firstly, the capacity of the built environment professional to practice sustainable within the content of the operational environmental law currently in use. Secondly, the moral premise or fairness employed by the government to persecute none compliant sustainable practices amongst the built environment professionals. Thirdly, the enforcement processes adopted by the numerous agencies saddle with the tasks of operating the environment justice mechanism. Fourthly, the use of a universal measurement scale to evaluate the performances of sustainable practices in any given environmental developmental growth generally.

Examining the aforementioned questions suggest that the challenge lies with simplifying and redefining environmental law. Collective decisive actions by all stakeholders and the inclusion of the built environment professionals in the processes that precede environment justice are necessary for achieving environmental sustainability. A specific sustainable evaluation framework formulation is necessary, as it is the only way to measure the level of sustainable achievement (Sharifi and Murayama, 2013). As such an innovation would clearly position countries on scorecard and to encourage adjustments by countries like Nigeria to fully mainstream environmental law and justice.

Conclusion

This study is focused on promoting environmental sustainability through the twin strategy of synergising environmental law and justice. The study uncovered the current position of environmental justice and sustainability in Nigeria as it relates to the built environment. Also, this study notes that environmental law and justice are components of achieving environmental sustainability. Hence, this study advocates for the mainstreaming of these two components into the Nigerian strategic efforts towards achieving environment sustainability.

Government should not only exercise their governance by documenting and formulating passive actions/strategies but to create active and workable strategies, generated by the collaborative contributions by all stakeholders, who must be guided and well informed about the environment sustainability law and justice dimensions.

Although, achieving environment sustainability is still a challenge due to the current uncertainty in the sustainable practices within the built environment professions in Nigeria. It is however, possible to evaluate the sustainable practices within the built environment, when specific measurement tools are developed. Also, the various professional institutes of the professionals involved in the built environment sector do need to re-strategise its membership towards sustainable practices.

This theoretical discourse further propels the need for second part of this study, which proposes an inductive inquiry amongst the built environment professionals in Nigeria. Findings from the inductive study would further uncover the true knowledge and understanding of environmental sustainability and justice.

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