CONSTITUTIONALISM AS THE FOUNDATIONAL COMPONENT OF A SUSTAINABLE DEVELOPMENT AGENDA FOR NIGERIA*[1]

Abstract

Despite the fact that Nigeria is blessed with abundant natural and human resources, the achievement of sustainable development remains faces serious challenges. These challenges are manifest in the debilitating incidents of institutional weakness, insecurity, corruption, poverty, environmental degradation, inequality, lack of proper infrastructure and accountability and other factors which continue to prevent Nigeria from harnessing its resources for sustainable development purposes. This paper contends that the above condition has remained intractable because Nigeria has not prioritized constitutionalism and good governance in its development agenda. Against this background, the paper focuses on the practice of constitutionalism as the indispensable foundational component for the fostering of any sustainable development agenda for Nigeria. The research methodology adopted is doctrinal and the hypothesis is that constitutionalism catalyses sustainable development by ensuring that all governmental powers must be exercised within the confines of legal limits and must be subject to the core elements of constitutionalism. The paper found that constitutionalism provides the basis for sustainable development by promoting constitutional supremacy, democratic governance, institutional accountability, fundamental rights, judicial independence, decentralisation and sustainable development in economic, social and environmental sense. The paper argues that constitutional recognition of development goals would be meaningless without constitutionalism in practice to control the arbitrariness of government and ensure that the institutions discharge their constitutional mandates. The paper therefore recommends measures such as increasing the independence and effectiveness of constitutional democratic institutions, providing access to justice, considering whether certain socio-economic goals should be enforceable, developing environmental constitutionalism, improving fiscal and institutional accountability, and constitutional culture among others. The paper concludes that constitutionalism is a crucial foundation for sustainable development and that Nigeria cannot achieve its sustainable development potentials through economic policies alone, unless its constitutional provisions are effectively enforced and democratic institutions are genuinely independent, competent and accountable.

Keywords: Constitutionalism; Rule of Law; Sustainable Development

1. Introduction

Sustainable development has become one of the major issues associated with economic development, social justice, environmental protection and intergenerational equity. The concept of sustainable development is often associated with the development of economics and society which does not decrease opportunities for future generations to meet their needs. In case of Nigeria, this issue is of special importance as the country has rich natural and human resources. But, at the same time, Nigeria was unable to achieve sustainable development of its economy. At present, Nigeria faces a number of problems which are poverty, unemployment, corruption, insecurity, lack of developed infrastructure, environmental pollution, poor institutional development and uneven distribution of public goods and services. This situation is not only a consequence of inappropriate economic policy but also the reflection of governance and constitutional issues.

The main aim of this paper is to underscore the understanding that constitutionalism can serve as the core component of sustainable development strategy in Nigeria due to the fact that constitutionalism provides the necessary legal and institutional foundation for developmental governance. Constitutionalism presupposes the limitation of the governmental powers by law and governance according to constitutional principles. This means that public power can be used for the benefit of society and prevention of arbitrariness in government. There are plenty of provisions in the Nigerian Constitution that can be interpreted as proof of the fact that constitutionalism can be a driving force of sustainable development. The main attention will be drawn to Sections 1, 14, 15, 16, 17 and 20 of the Constitution of the Federal Republic of Nigeria, 1999 (amended). Namely, section 1 provides for supremacy of the constitution, while section 14 proclaims that the sovereignty resides in the people and security and welfare of the people are the supreme purposes of the government. Sections 15-17 state general objectives in respect of national unity, social justice, economic development, equality and human welfare. Section 16 provides for the fact that the State will ensure planned and balanced development and use of material resources of the nation for common welfare. Section 20 requires the State to conserve and enhance the environment and protect the water, air, land, forest and wildlife resources of the country.

However, the existence of constitutional objectives does not necessarily mean that sustainable development is guaranteed. The point is that many of the clauses in Chapter II of the Constitution have been categorized as Fundamental Objectives and Directive Principles of State Policy and thus, in general, are non-justiciable according

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to Section 6(6)(c). This makes for a scenario in which the Constitution, on one side, has high development expectations, whereas it restricts citizens' rights to enforce them through the judicial process, on the other. The paper concludes that constitutionalism creates the institutional environment within which sustainable development policies can operate predictably and accountably by restraining arbitrary actions of government by independent and strong enforcement institutions. In this connection, this study tries to examine whether constitutionalism can help solve this discrepancy between constitutionalism and development.

2. Conceptual Clarifications

Constitutionalism

The concept of constitutionalism is not only complicated; it is also nebulous and ideologically controversial. Hence, it has been defined as 'a complex of ideas, attitudes, and patterns of behavior elaborating the principle that the authority of government derives from and is limited by a body of fundamental law'.[2]The concept is also susceptible to various uses including prescriptive and descriptive uses.[3] Used descriptively, it refers chiefly to the historical struggle for constitutional recognition of the people's right to 'consent' and certain other rights, freedoms, and privileges. Used prescriptively, its meaning incorporates those features of government which are seen as the essential elements of the constitution. In clear terms, the descriptive approach describes what constitutions are, while the prescriptive approach addresses what a constitution should be. There is also the traditional and the modern approach to constitutionalism. The traditional approach emphasizes on the idea of limited government while the modern approach emphasizes on the idea of democratic values.[4]

Notwithstanding the fact that its uses are various and its meaning highly contested, the idea of constitutionalism is highly venerated by scholars, just as its essence is generally presumed and accepted as something worth promoting. Generally speaking, the concept embodies and describes a complex of ideas, principles, attitudes and behavioral patterns that must be embodied and entrenched in the constitutions of any body politic and enforced to promote democratic governance or good governance.

Thus, it is not enough for a country to be ruled in terms of a constitution, it is equally important that such constitution must have been a product of a democratic process[5] and that it contains the core democratic principles or values that impose limitations on both the rights of the government and that of the governed as well in other to achieve democratic governance. This implies that a constitution that can promote constitutionalism must contain irreducible and possibly minimum content of values or core elements and equally contain a well-defined process and procedural mechanisms to hold government accountable.

The minimum content of values or core elements of constitutionalism include: entrenched and protected fundamental rights and freedoms; the doctrine of separation of powers; the independent judiciary; the supremacy of the constitution and judicial review of the constitutionality of laws and actions of government; civilian control of the police and the military; control of the alteration or amendment of the constitution; and the existence of strong democratic institutions to promote good government and to hold the government accountable.[6]Every democratic constitution must contain the above elements to be able to provide a solid foundation for constitutionalism and democratic governance.

Thus, a constitutional government is one in which the constitution contains democratic values with the necessary inbuilt mechanisms that impose limitations or controls upon the powers of the government. As aptly stated by Mcllwain, constitutionalism is the antithesis of arbitrary rule. Its opposite is despotic government, the government of will instead of law.[7] Thus, limited government under a fundamental or higher law as reflected in a Constitutionalism should be distinguished from the mere existence of a constitution. A constitution may establish governmental institutions without effectively limiting governmental power. Constitutionalism, by contrast, concerns the substantive principle that political power is legally limited and that governmental institutions are accountable to higher constitutional norms. Thus, at its core, constitutionalism requires that government itself be subject to the rule of law.

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[2]Fehrenbacher, D.E., *Constitutions and Constitutionalism in the Slaveholding South* University of Georgia Press, (1989) p 1.
[3]*Ibid*: http://www.definitions.net/definition/constitutionalism (accessed 20 June 2010).
[4]*Ibid.*
[5] It is because of its democratic process deficit that the legitimacy of the Constitution of the Federal Republic of Nigeria, 1999 is still being challenged by Nigerians as to whether it is indeed the people's constitution. It will be recalled that the Nigerian constitution was made by the military after constituting a constitutional conference with terms of reference stating 'no go areas' and subsequently signed into law by the then military Head of State after doctoring same, without the approval of the Nigerian people in a referendum or plebiscite.
[6]Henkin, L., 'Elements of constitutionalism', 60 *The Review* (1998), pp 11-22.
[7]Mcllwain, C. H., *Constitutionalism Ancient and Modern* Ithaca, New York Cornell University Press (revised edition), (1947) pp 21-22.

It must be noted that there is an important distinction between constitutional government and constitutionalism. Constitutional government describes a governmental structure established by a constitution. On the other hand, constitutionalism asks whether that structure actually constrains the exercise of public power. This distinction is particularly important in Nigeria which has operated under several constitutional arrangements since independence, including periods of military rule during which formal constitutional arrangements were suspended or substantially modified. The experience demonstrates that the mere existence of constitutional texts does not guarantee constitutional government in the substantive sense.

Constitutionalism requires a political culture in which public officials accept that their powers are limited and that institutions must operate according to law. It also requires effective enforcement mechanisms. Without independent courts, legislative oversight, transparent institutions and respect for fundamental rights, constitutional limitations can become merely aspirational. Recent Nigerian scholarship similarly identifies disobedience of court orders, impunity, corruption and nepotism among the factors weakening constitutionalism in Nigeria. These deficiencies are directly relevant to sustainable development because development depends upon predictable institutions, secure rights, accountability and confidence in public governance.

Rule of Law

The rule of law is a universal concept and not the monopoly of any system or tradition of government or civilization, such that even military regimes lay claim to the rule of law as one of their basic principles.[8] While the idea of the rule of law might not have a stable meaning or content, one of its abiding principle is the regularity of law, that is, the idea that man is governed by law and regulations and not by the caprices of the rulers.[9]

The concept of the rule of law is usually principally associated with the writings of the great constitutional lawyer, Dicey who wrote from the background of his idea about the English Administrative Law. Dicey was concerned with the idea of equality before the law, with the idea of legality or of the universal subjection of all classes to one law administered by the ordinary courts. Furthermore, the rule of law properly so defined insists on constitutional limits on power which is a key feature of democracy requiring adherence to the rule of law. To this extent, rule by law can be described as an antithesis of the rule of law. In this connection, the then United Nations Secretary-General, Kofi Annan, in his 2004 reports on the rule of law stated that the rule of law is:

> a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires as well measures to ensure adherence to the principles of supremacy of the law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness, and procedural and legal transparency.[10]

The rule of law is thus a cross-cutting issue which links the issues of peace and security, human rights and development which are critical for the realization of the aims and objectives of international organizations. The central essence of the doctrine of the rule of law is to ensure that the affairs of the state are conducted in accordance with pre-determined, and known rules made in accordance with the constitution without the arbitrary will of some privileged individuals or classes, of general application and administered in the regular or ordinary court which is independent of executive discretion. Therefore, where the rule of law prevails, government should be conducted within the framework of recognized rules and principles which restrict discretionary power and disputes as to the legality of acts of government are to be decided by judges who are wholly independent of the executive.

Thus, it is not enough that the rule of law exists in theory. It must be observed by both the rulers and the ruled such that the wielders of power are consequently under obligation to provide the right political rules and ensure that there are no institutionalized obstacles to its concrete realization. This presupposes that the state is subject to the law and is therefore bound to respect the legal rights of the citizens.[11] The rule of law is thus a shield and a fortress against tyranny and oppression, and of course social injustice.[12]

From the foregoing, it is clear that the rule of law and democratic governance and development are coexistent, interlinked and mutually reinforcing universal principles. It has also advanced the recognition that building democracy and the rule of law may be convergent and mutually reinforcing processes whenever the rule of law is defined in broad, ends-based terms rather than in narrow, formal and exclusively procedural terms.

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[8] O. E. Nwebo, *Critical Constitutional Issues in Nigeria*, (Owerri: Nwankpa Publishers) Rev. ed. 2021 53.
[9] *Ibid*, p 24.
[10] See the 'rule of law and transitional justice in conflict and post-conflict societies', 23 August 2004 (S/2004/616), para. 6.
[11] See *Military Governor Lagos State v Ojukwu* [2001] FWLR (Pt 50) 1779 at 1812.
[12] O. E. Nwebo, *Critical Constitutional Issues in Nigeria*, *Op Cit*. 59.

Against the above background, the promotion of the rule of law in its broader conceptualization is critical because in any society where the rule of law is forced to abdicate, the rule of force usurps the vacant throne and it will be tragic for man to realize his legitimate aspirations in such environment. Indeed, a society without the rule of law as a bulwark against the abuse of power is a negation of society itself. In recognition of the above, member states of the United Nations committed to adhere to and protect the rule of law principles as a condition for the citizens to realize their legitimate aspirations.[13]

Sustainable Development

Before the emergence of the sustainable development theory, development was conceived in economic terms. Hence the economic growth theory and classical economic theory dominated the concept of development. Accordingly, development was equated to economic growth in terms of an increase in per capita income, an increase in Gross Domestic Product (GDP) and industrialization. Over time, development evolved from an economic perspective of growth to an expanded and multi-dimensional perspective, encompassing poverty reduction, social justice, participation, human welfare, institutional changes, sustainability, and freedom.

Sustainable development approach is another paradigm shift in the meaning of development which occurred with the advent of environmental concerns. The Brundtland Commission's report, Our Common Future (1987), defined sustainable development as development that meets the needs of the present without compromising the ability of future generations to meet their own needs.[14] Thus, sustainable development combines economic development, social equity, and environmental protection.[15] It takes into account ecological constraints and intergenerational equity as core principles of development policies.[16]

The concept has at least three interconnected dimensions: i) *Economic sustainability*, involving productive economic growth, employment, investment, infrastructure and prudent management of public resources; ii) *Social sustainability,* involving poverty reduction, equality, access to health and education, social inclusion, human dignity and improvement of living standards; iii) *Environmental sustainability*, involving the protection of ecosystems and natural resources and the prevention of environmental degradation. The three dimensions are interconnected and inseparable, in that, economic growth that destroys the environment may ultimately undermine human welfare. Likewise, economic growth that benefits only a small section of society may deepen inequality and undermine social stability.

The United Nations Sustainable Development Goals ('SDGs') reflect this integrated understanding by linking poverty eradication, health, education, gender equality, decent work, reduced inequalities, peace, justice, strong institutions and environmental sustainability.[17] Constitutionalism is relevant to each dimension because sustainable development requires effective institutions capable of making and enforcing long-term rules. Development cannot be sustainable where public resources are diverted through corruption, contracts are insecure, courts are ineffective, environmental laws are ignored or political officeholders operate without meaningful accountability.

3. Legal Framework for Constitutionalism as the Bases for Sustainable Development in Nigeria

First and foremost, under section 1 of the Constitution of 1999, the Constitution is the supreme law in Nigeria and laws which are inconsistent with the Constitution are void in so far as they are inconsistent. Constitutional supremacy is an important ingredient of sustainable development because it ensures that institutions of the government do not act solely on the basis of political will. The power to make and enforce policy is one of the powers of the developmental state, but this power needs to be regulated by law. Rule of law makes government actions predictable and ensures that public power is exercised not in accordance with personal preferences of the office bearers. The Supreme Court has reiterated the constitutional position of the judiciary in ensuring the observance of the rule of law. In *Dingyadi v INEC*,[18] the role of the courts as the guardians of the Constitution and the relationship between constitutional governance and the rule of law were recognized. In such a society, confidence of the people, businesses and investors increase. The investors need reasonable certainty with respect to property rights, contracts, taxation, regulations and dispute resolutions. People need assurance that those in government cannot unilaterally deny them their rights. This is why constitutionalism creates a setting that allows for sustainable economic practices.

[13] *Ibid.*
[14] World Commission on Environment and Development, *Our Common Future* (Oxford University Press 1987) 43.
[15] *Ibid* 8–9.
[16] World Commission on Environment and Development, *Our Common Future* (Oxford University Press 1987) 43.
[17] United Nations, *Transforming Our World: The 2030 Agenda for Sustainable Development* (UNGA Res 70/1, 25 September 2015).
[18] *Alhaji Muhammadu Maigari Dingyadi and another v Independent National Electoral Commission and others* (SC 32/2010) [2011] NGSC 11.

According to Section 14(2)(a) of the constitution, sovereignty rests with the people of Nigeria whose powers the government exercises while Section 14(2)(c) further stipulates that participation of the people in the governance process must be assured in accordance with the Constitution. Political participation is significant to sustainable development since development policies will be more legitimate and possibly more responsive if citizens are allowed to engage in political decisions. However, democracy does not simply entail conducting regular elections. Sustainable development calls for continued accountability during the period between elections. Legislatures need to perform their oversight role; courts need to remain accessible to contest illegal actions of governments; civil society needs to scrutinize public institutions; and citizens need to be granted access to information and public decision-making. Rule of law and democracy therefore act as two mutually complementary pillars of constitutionalism. Economic objectives of the country have been detailed out in Section 16 of the Constitution. It mandates the state to utilize its national resources and achieve national prosperity and an efficient and self-reliant economy. It also mandates planned and balanced economic growth and development as well as distribution of material resources in a manner that benefits society.

The above-mentioned provisions correlate well with the economic aspect of sustainable development. The constitutional provisions for resource distribution, social justice and economic opportunities imply an intention to bring about an improvement in welfare of citizens through development. Section 17 of the Constitution provides that the state's social order is based on the ideals of freedom, equality and justice. This section further recognizes equality before law, human dignity and necessity of avoiding exploitation of both human and natural resources. These objectives are essential for the purpose of social sustainability. Hence, a developmental paradigm that ensures growth in GDP but leaves a significant population without healthcare, education, jobs or even infrastructure cannot be termed as sustainable. Social sustainability thus needs institutional mechanisms that are able to translate the ideals in the constitution into public policy.

There is yet another method through which the protection of fundamental rights enshrined in chapter IV plays a vital role. Rights concerning life, dignity, personal liberty, fair hearing, Thus, environmental constitutionalism can be used to ensure that economic development is done without harming the ecology. The above provision shows that environmental protection is not an outsider in the constitutional law of Nigeria. It is the constitutional basis of environmental governance although its location in Chapter II makes judicial enforcement difficult.

The separation of powers doctrine is part of the constitutional system that divides the governmental powers between the executive, legislature and judiciary. The primary purpose of this doctrine in the constitution is to prevent the concentration of power. In relation to sustainable development, the separation of powers doctrine is of practical significance. Legislatures can examine the budgets and spending by the government; courts can check the illegal actions of the executive while the executive can formulate and implement development policies. Lack of effective checks and balances can lead to situations where public funds can be wasted with impunity. Thus, the separation of powers contributes indirectly to development. In the above context, an independent judiciary is essential for constitutionalism. This implies that the courts should be able to rule on government cases without political influence. Where the courts uphold the rights to privacy, freedom of speech, association and freedom from discrimination, this will ensure a legal environment wherein people can effectively participate socially and economically.

Regarding environmental protection, section 20 of the constitution states that the state shall take necessary steps to protect and improve the environment and also safeguard Nigeria's water, air and land, and also its forests and wildlife. The significance of this particular clause can be seen especially in Niger Delta, where there have been serious environmental and socio-economic consequences due to oil exploitation. Sustainable development calls for balancing of natural resource extraction with environmental protection and public health. Consequently, the Constitution grants judicial powers to the judiciary and institutes the institutional framework of judicial adjudication. Hence the Supreme Court is the guardian of the Constitution and the final forum to resolve legal controversies, highlighting the significance of judicial independence, accountability, and access to justice. In this regard, judicial independence contributes to sustainable development in a number of ways. Firstly, it ensures that citizens are safe from any illegal actions of the government. Secondly, it allows for enforcement of the contract and property rights. Finally, it ensures accountability when the government agencies act beyond their constitutional limits. However, the efficacy of this mechanism is dependent on the accessibility of justice, since a right that cannot be enforced due to its prohibitive costs, unreasonable delay, or unavailability offers little developmental protection.

Corruption is among the most serious challenges to development because it enables funds to be diverted from infrastructure, health care, education, and social security. In this regard, Section 15(5) of the Constitution stipulates that 'the State shall take all appropriate measures, including legislation, to abolish corrupt practices and abuse of power.' This constitutionally-mandated approach is supplemented by the establishment of the anti-corruption institutions and laws like the Economic and Financial Crimes (Establishment Act) 2004 charged with the responsibility for the enforcement of all economic and financial crimes laws, among other things and the Independent

Corrupt Practices and Other Related Offences Commission (ICPC) Act 2000 to prohibit, investigate, and punish corruption.

To this extent, the role of constitutionalism is in ensuring that government officials act in accordance with law. This requirement involves more than criminal prosecution. Transparency of procurement, legislative oversight, auditing, information access, declaration of assets, and judicial action are all part of accountability. The general idea here is that the public funds are used for public purposes, thereby supporting the achievement of sustainable development. For that reason, constitutional governance entails the exercise of public authority as a trust.

4. Evaluation of Constitutionalism as the Foundational Component of Sustainable Development Strategy for Nigeria

In Nigeria, the reliance on its natural resources, particularly the oil reserve, offers yet another example of the need for constitutionalism in facilitating sustainable development. On one side, natural resources offer a huge revenue potential, but, on the other side, they offer the opportunities for corruption and the exploitation of natural environment, as well as the creation of weak institutions. Hence, the constitutional principle that public property must serve the interests of all people takes a particular significance. It is crucial to find out how the wealth of natural resources can be turned into the public benefit. Constitutionalism can facilitate this goal through ensuring the following measures: the transparent and accountable management of the resources; legislative oversight of the revenues of the resources; compensation of the damage caused to the communities due to the exploitation of the resources; environmental protection; legal action against the illegal behavior of the government; equal distribution of public goods; and preventive measures against abuse of public position.

However, it is important to note that constitutionalism alone cannot pave roads, produce electricity, provide jobs, and alleviate poverty. These activities are to be done through proper planning, appropriate economic policies, investments, efficient public administration, and implementation. It would be too simplistic to consider constitutionalism as the only pivotal factor in sustainable development in Nigeria. It means that the process of development requires appropriate economic policies, efficient public administration, education, innovations, infrastructure, security, environment management, and good political leadership for the implementation of these activities.

Nonetheless, it is appropriate to consider constitutionalism as the pivotal factor in the context of the fact that it establishes the framework within which other factors operate. If there is no rule of law, accountability, protection of rights, separation of powers, and checks and balances on government, development efforts might be jeopardized by political instability, corruption, and bad governance. The importance of constitutionalism as catalyst to sustainable development can be summarized by considering the core elements.

Rule of law and institutional stability: Constitutionalism entails predictability in governmental conduct as well as limitation on arbitrary state conduct. Under constitutionalism, government officials have a legal obligation to conduct themselves according to established principles of law. Where the rule of law prevails, citizens and organizations are more likely to be confident enough to undertake activities such as investment, contracting, acquiring property, and engaging in economic activities. Foreign investors, in particular, are more likely to be encouraged and are assured of their investments' safety and security as far as any arbitrary actions by the government are concerned, and where any violation occurs, there is an independent judiciary where they can go to seek justice. Unfortunately, in Nigeria, the process of development has suffered due to poor implementation of the rules of constitutionalism and judicial decisions as well as corruption and political interference with public institutions.

Protection of fundamental rights: Development does not only entail the increase in GDP but also the improvement in people's quality of life. Protection of people's rights like life, dignity, liberty, fair hearing, freedom of expression, and freedom from discrimination enables citizens to be active participants in the development process.

Accountability and control of corruption: One of the major hindrances to the achievement of sustainable development in Nigeria is misuse or inefficient allocation of public resources. Constitutionalism has the means to ensure accountability through the separation of powers, legislative control, judicial control, auditing, elections, and other such means of checking the government. In cases where such checks are effective, it becomes highly probable that the government will channel its resources into infrastructure development, health care, poverty alleviation, environment protection, and education rather than misappropriate them through abuse of office.

Separation of Powers: It is crucial for sustainable development that the powers of the executive, legislature, and judiciary branches of government be separated in order to avoid excessive concentration of powers. Through effective checks and balances, good public policy making and reduced arbitrariness of decision-making could be achieved. However, from the experience of Nigeria, it is evident that even with the presence of constitutional institutions, much can be achieved if they are not independent and effective.

Social and economic development: In addition to being one of the main sources of law in the nation, the Nigerian Constitution includes several important Fundamental Objectives and Directive Principles of State Policy that include the political, economic, social, educational, and welfare objectives. Section 16, for example, obliges the state to ensure that it promotes a planned and balanced economic policy and material resources shall be utilized in the common good of all. An obvious problem here is the fact that many of these principles are not justiciable under Section 6(6)(c). Thus, the citizens would find it quite difficult to enforce their socio-economic constitutional aspirations through the courts of law.

Environmental sustainability: Any sustainable development shall inevitably involve environmental protection. Accordingly, Section 20 of the Constitution obliges the state to protect and enhance the environment by preserving the Nigeria's water, air, land, forest, and wildlife. The problem is that of implementation of the constitutional principles in practice.

Democratic participation and inclusive development: Constitutional democracy provides avenues through which citizens may influence public policy through elections, political participation, freedom of speech, and representation. The inclusiveness of participation is important since development policies tend to be sustainable if the people whose interests the policies impact are able to influence decisions on how the resource, land, infrastructure, and other public services are used.

Constitutionalism and Human Rights: The connection between human rights and development is increasingly becoming well acknowledged globally. Sustainable development cannot be achieved in isolation of human dignity and freedom. There are many human rights provisions provided by the Nigerian Constitution including life and dignity of person; personal liberty; fair hearing; privacy; freedom of thought, conscience and religion; freedom of expression; freedom of peaceful assembly and association; and freedom from discrimination. These human rights provide institutional prerequisites for sustainable development. For instance, freedom of expression helps to check government actions. Freedom of association allows civil society organizations to campaign for communities. Fair hearing builds trust in institutions. Equality of opportunity prevents marginalization. Thus, human rights are both the goals and the institutional means of development.

5. Challenges to Constitutionalism in catalyzing Sustainable Development in Nigeria

Despite its formal constitutional framework, Nigeria faces several obstacles to effective constitutionalism as explained hereunder.

Constitutional Impunity: Constitutional norms do not work well when political actors ignore institutional constraints. Non-compliance with court decisions, abuse of public office, and failure to adhere to legal standards diminish the legitimacy of the constitutional order.

Weak Institutional Capacity: The capacity of institutions is essential for constitutionalism. When regulatory bodies, legislatures, courts, and public service institutions lack adequate resources and autonomy, constitutional norms may fail to achieve their goals.

Endemic Corruption: Corruption hinders the rule of law and development. Corruption misallocates resources, weakens public institutions, and creates distrust in government.

Election Malpractices: The legitimacy of a democratic government depends on elections. The doubts about the fairness of elections make the government and political institutions illegitimate.

Over-centralisation of Governance: The federal system of Nigeria entails many constitutional powers at the national level. Overcentralization limits the ability of regional governments and communities to provide context-specific solutions for development issues.

Poverty and Inequality: A high degree of economic inequality hinders the participation in constitutional democracy. The right to participate politically is incomplete when the people do not have access to education, healthcare, employment, and other social services.

Non-Justiciability of Chapter II: One of the greatest constitutional obstacles to using constitutionalism as a catalyst for sustainable development is the non-justiciability of many provisions of Chapter II. Section 6(6)(c) limits the judicial enforcement of Chapter II by providing that judicial powers shall not extend, except as otherwise provided by the Constitution, to determining whether an act or omission conforms to the Fundamental Objectives and Directive Principles of State Policy, thereby creating a significant gap between constitutional aspiration and enforceability. For example, section 16 recognises the need for planned and balanced economic development, while section 17 contains objectives relating to employment, healthcare and social welfare. Section 20 addresses environmental protection. Yet citizens may encounter difficulties in directly invoking these provisions before the courts to compel government action. The problem is not that Chapter II lacks constitutional significance. Rather, its political and legal force is considerably different from that of enforceable fundamental rights. This distinction raises an important question: can sustainable development be achieved where many of the constitutional provisions most directly concerned with development are not directly enforceable? One possible solution is constitutional interpretation that reads Chapter II alongside enforceable rights. For example,

environmental degradation may implicate rights to life and dignity; inadequate healthcare may in certain circumstances intersect with enforceable rights; and discriminatory allocation of public resources may engage equality principles. A further possibility is legislative implementation. The National Assembly and State Houses of Assembly can translate constitutional objectives into enforceable statutory rights and institutional duties by legislation.

6. Conclusion and Recommendations

Based on the foregoing, it is submitted that that is impossible to solve the developmental issues confronting Nigeria solely on the basis of economic planning and expenditure. This is because developmental issues are invariably linked to issues of good governance and effective functioning of constitutional institutions. Thus, achieving sustainable development in Nigeria requires not only development plans but also a system where public power will be constrained by the constitution, public resources will be used for public benefit, individuals' rights will be guaranteed and institutions made accountable. Constitutionalism thus becomes an institutional need that is essential for realizing the potential for development provided in the Nigerian constitution. There are sufficient provisions in the 1999 Constitution of Nigeria that can support sustainable development. For instance, the provisions regarding popular sovereignty, social justice, economic development, equality, human dignity, environment and rule of law create the vision of government serving the public interest.

The non-justiciability of many provisions of Chapter II should be taken seriously. A constitutional order that proclaims its commitment to economic development, social welfare and environment protection but at the same time offers little possibility to enforce these rights creates a gap between constitutional aspirations and real-life situation. The point is that the challenge to achieving sustainable development agenda for Nigeria is not so much that of lack of enabling constitutional provisions, but that of disparity between constitutional theory and practice. Non-compliance to court decisions, corruption and nepotism which have remained some of the elements that stand against constitutionalism in Nigeria. It is therefore submitted, that through the limitation of governmental power, accountability, protection of basic rights, judicial independence, and establishment of the rule of law, constitutionalism may bring about the institutional framework that is required for sustainable development. It should be stressed, however, that in order for this strategy to be successful, Nigeria should overcome constitutionalism's formal aspect. Constitutional norms should be recognized by political actors, institutions should be independent, courts should be accessible, public resources should be properly managed, and citizens should be empowered to engage in governance and ensure that government is held accountable for their actions.

Against the background that constitutionalism is a crucial foundation for sustainable development in Nigeria because it promotes rule of law, accountability, human rights, democratic participation, institutional stability, and responsible management of public resources, its developmental potential should be strengthened through reforms that connect constitutional principles with practical sustainable development programmes and outcomes. These can be achieved by:

Strengthening Institutional Independence: Institutions responsible for elections, anti-corruption, public auditing, human rights and justice should enjoy sufficient operational independence to perform their constitutional and statutory functions effectively.

Enhancing Access to Justice: Justice delayed or inaccessible is inconsistent with meaningful constitutionalism. Judicial reforms should therefore focus on reducing delays, improving court administration, expanding legal aid and using appropriate technology.

Enforceability of Socio-Economic Rights: Nigeria should consider whether selected socio-economic objectives should receive stronger legal protection. A constitutional amendment could make certain core entitlements—such as basic education, primary healthcare or environmental protection—more directly enforceable, subject to carefully designed institutional and resource limitations.

Strengthening Environmental Constitutionalism: Section 20 should be given greater practical effect through legislation, judicial interpretation and stronger environmental institutions. Environmental protection should be incorporated into development planning rather than treated as an obstacle to economic growth.

Strengthening Legislative Oversight: Legislatures should exercise more effective oversight over budgets, borrowing, public procurement, resource revenues and executive expenditure. Effective legislative scrutiny can reduce waste and improve development outcomes.

Promoting Constitutional Literacy: Citizens must be made aware of their constitutional rights and the limitations placed upon public officials. Constitutional education should therefore extend beyond law schools to schools, universities, civil society and public institutions.

Development of Culture of Constitutionalism: Ultimately, constitutionalism cannot be sustained by legal rules alone. It requires the development of a culture in which political actors, public servants, judges and citizens recognise the Constitution as a binding framework for political conduct.