

LEGAL RESEARCH AS AN INSTRUMENT FOR SUSTAINABLE DEVELOPMENT

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Abstract

Research has been a major tool through which societal problems are identified and solutions are provided to better society. Like research in every other discipline, legal research is needed so as to help people in the legal domain to share new innovations, findings and other vital information as it relates to law. With happenings in the legal field, such as court proceedings, judgments, etc, legal research becomes imperative for the sustainability and development of any human society in order to find answers to questions through the application of systematic approach toward purposeful investigation, since the world has become a dynamic global village. Important concepts in legal research were explicated to simplify the topic under discourse. It was concluded that as long as the Nigerian society remains dynamic, legal research should continuously be undertaken to replicate the existing reality that would bring about sustainable development notwithstanding the different challenges that confront legal researchers in our society. This in no doubt will help Nigeria as a country and the legal personality to effectively and efficiently compete in the prevailing legal knowledge and economy. Among the recommendations made in the study includes the need for policy makers to ensure that the research departments of the universities are adequately funded.

Keywords: *Legal Research, Sustainable Development, Challenges, Knowledge Sharing*

1. INTRODUCTION

The quest for knowledge has led human beings to various form of injury. The desire to find answers to our day to day life experience and expectations have also led human beings to engage on a systematic search for information that led to knowledge. The results of such searches are presented in different forms. For the lawyer and law students, their searches are presented in form of legal research finding, every other field of human endeavor has its own pattern of presentation, but the end result is for the overall development of the human society. Again, the quest for knowledge is anchored on the fact that there is continuous innovation and improvement in knowledge sharing. New ideas springs up every day and people are interested in questioning some practice and nothing is taken for granted. Questions are raised with the hope to find answers to them. It is on the premises that knowledge can be discovered and be added to, and that problems are soluble that is why we engage in continuous search for reason and clearly expanded answers to the why and why not in our respective field of endeavor.

Conceptual definition

As the logician would insist “ unless we define our terms with such degree of accuracy as the subject matter and knowledge permits, clear thoughts and convincing statement are impossible¹. The insistence is no doubt understandable.

Thought is reality conceived in terms, and statement giving expression to thought is that reality expressed in terms. Terms are capable of having more than one meaning. It is therefore imperative that if the thought and statement giving expression are to be clear, convincing and free from ambiguity, terms must be defined. To define a term is to state its limit². It is also to make the term clear and less ambiguous. For the purpose of definition therefore, the imperative or dominant terms in this work may be characterized into such words and phrases as legal research, instrument, and sustainable development. Thus, an overview of various attempts by different authors to define these terms shall be examined. Literature was sourced via consultation of relevant authorities in the legal field as well as cases and statutes. The role of legal research in sustainable development, as well as challenges facing legal research were also discussed in the study.

What is Research?

Research is an academic activity and a systemized effort by individuals to gain new knowledge³. In the common parlance, research is referred to as search for knowledge. It is an

¹Luce, A.A.; Logic (kent: Holder 7 Stoughon, 1996.)

² Luce, A.A.; Logic. P27

³ Redman, D.O *Research methodology*, Boston: Reinforce Publishers 2012.

organized enquiry that aims at providing information for solving identified problems. Thus, research simply implies an examination, inquiry, investigation or an experiment aimed at discovering facts and arriving at dependable solutions to problems.

Legal Research

Legal research on the other hand, can be defined as conducting investigation to discover the principles and rules of law applicable to a particular problem and to discover what the legal answer is. In this sense, legal research is an applied research, that is to say, it aims to solve given and existing problems. The question being investigation of the principle and rules applicable to an area of law where it is seen that problem may arise, though no specific problem has yet arisen.

Legal research comprises primary fact finding (that is, what the law is on a particular subject), fact ordering, fact systemizing and studying and predicting legal trends. Legal research concerns with the process of identifying and retrieving information necessary to support legal decision making. In its broad sense, it includes each step of a course of actions that begin with an analysis of the facts of the problem and conclude with the application and communication of the result of the investigation. Legal research may be carried out by anyone with a need for legal information or material such as students, writers, lawyers, judges and scholars.

In terms of legal research, one can classify legal research into two namely, doctrinal and non-doctrinal. A doctrinal legal research involves analysis of case law and statutory provisions by application of power of reasoning. It is said that traditionally, legal research has been concerned majority with the development or elaboration of legal doctrine and the normative purposes of law, using such raw materials as laws regulations, rulings and cases. In other words, what a legal researcher does is to organize his study around certain legal propositions; use law reports and conventional legal materials as his principles sources of data readily accessible in a law library; and draws conclusion from these legal materials. It is observed that the main characteristics of a doctrinal research are as follows:

The researcher organizes his study around legal propositions; primary sources are the main sources of data while secondary sources play only a supportive role. A doctrinal legal research is speculative in nature because it consists in pondering over the essence and main qualities of law.

A non-doctrinal research on the other hand, is the research into the actual working of the law. In a non-doctrinal research, emphasis is not really on the legal doctrines and concepts, but on people, social values and social institutions supposedly regulated by law. In this category of research, data necessary to answer questions are not ordinarily available in the conventional legal sources. Therefore, field work is usually required for this research.

However, all legal research has its objective, the collection of authoritative materials relevant to the problem. It is said that the problem of legal research may entail these two basic aims:

(a) to ascertain the legal consequences of a specific set of facts; and (b) to study the functioning of particular legal institutions in a specific economic, social and political context.

Instrument

The word instrument in this paper refers to a figurative means of achieving a goal. In other words, legal research as a tool or device for achieving sustainable development in our society by searching for the truth which assist in formulating policies and decision making on critical issue which may lead to satisfaction and improvement of mankind in its environment as well as all fields of human endeavor.

Sustainable Development

Sustainable development is most commonly defined as development that meets the need of the present without compromising the ability of the future generations to meet their own needs. It means development that is sustainable. Development can be defined as a collective process of change towards improvements in quality of life for human beings and their communities, and sustainability refers to the need for development to be integrated socially, economically, legally and environmentally sound, oriented to the long-term and hence, able to last.

The concept of sustainable development in law requires accommodation, reconciliation and integration between economic growths, social justice and environmental protection objectives, towards participating improvement in collective quality of life for the benefit of both the present and future generation.

The term sustainable development describes an emerging corpus of international legal principles and instruments which address the intersections between international economic, environmental and social law towards development that can last for the benefit of present and future generations. It is a phenomenon associated with the changes in the human condition through the use of their creative energies which is usually driven by researchers. It is the unending improvement of the capacity of individual in the society to control and manipulate the forces of nature in order to live a better and more rewarding life, hence legal research is a necessary instrument to regulate and direct human activities in a society. Therefore, legal research is essential for achieving sustainability.

The role of legal research in sustainable development

Legal research contributes to the general development of knowledge, understanding and processes. Where a good law student or lawyer discovers new issues or error in old thinking, they can reveal this constructively, so as to correct and or clarify the position and advance knowledge in that area. This is a very important way legal systems have developed overtime.

Human existence and interaction among human beings is an obvious fact brought about by nature. Interaction bring with it the likelihood of frictions and disagreements as well as the possibility of having interest, rights, duties and obligations not only interacting and crossing

each other, but polarizing the bearers of such. In antiquity, war, endless feuds and external hatred have been ways used to establish or resolve differing positions.

Legal research has shown that with development and advancement of mankind, disputes and conflicts began to be resolved amicably and or through resort to legal processes. The establishment of a formal court and adjudicative system signifies a progression of sustainable development in human life. Today, legal research has brought about settling disputes and giving it a kind finality, the need to remove exorbitant litigation as well as formality serve as impetus for the emergence of Alternative Dispute Resolution (ADR). Overtime, legal research has proved that this tool is acceptable and used in resolving complex disputes and conflicts in both local and international standard. Over the years, a number of developmental objectives have identified with Alternative Dispute Resolution as means of sustainable development in the legal arena thereby demystifying the law and procedures of justice. The simplification of litigation processes and relative infirmity as well as prediction of outcome and participation has aided the principle of comparative problem solving in Nigeria. Reduction of delays and cost associated with litigation has assisted the preservation and enhancement of personal, social as well as business relationship in the Nigeria economy. There is every justification to welcome the extension of Alternative Dispute Resolution to cover criminal cases which has now reflected on Plea Bargaining in the recent Administration of Criminal Justice Act 2015. A mechanism dealing with cases of purely criminal nature and high profile corruption cases in Nigeria.

Legal research has shown remarkable record of success as well as the benefits the society has obtained by ensuring that the guilty are not acquitted in Nigeria.²⁵

More so, it has the potentiality of decongesting prisons since the amount of time that will be served by the convicts will be greatly reduced and some other potential prisoners will have their time commuted to social service that will bring other sustainable development in Nigeria.

Furthermore, the task of dispensing justice has become timeous, efficient and effective in our society. If it is a financial crime, for example, money laundering, the proceed of crime is taken away as a means of restitution. This is a remarkable decision brought about by legal research as an instrument of sustainable development in Nigeria. Delivering the judgment at the Federal High court Lagos, Justice Mohammed Shuaibu held in the case of *F.G.N Alamieyeseigha* that;

In respect of the properties in charge sheet, they are hereby forfeited to the complainant (Federal Republic of Nigeria). The proceeds after two sales will be forfeited to Bayelsa State Government.

What could be more sustainable than these units when who embezzle or steal public fund are made to refund such to government coffers, and still be made to serve jail terms no matter how little it might be. It is a welcome sustainable development brought about by legal research in criminal jurisprudence especially now there is war against corruption in Nigeria.

A cursory look at the plea bargain in our society that the process has been significantly exploited to fight serious crimes like money laundering, drug trafficking, financial misappropriation and criminal activities of that mode by the anti graft body known as the Economics and Financial Crime Commission (EFCC).

No doubt, EFCC has entered plea bargain with so many suspects by compounding the offence before it goes to court, they can agree with the suspect who would be told to return all the loot and such suspect's punishment will be negotiated but not to eliminate it. The EFCC came into existence by way of legal research to save Nigerians from the cankerworm of corruption that has eaten deep into all sectors of human endeavor.

It is therefore heartwarming to note that the EFCC has succeeded in utilizing the law by prosecuting some of the so called big men and in some cases secure their conviction. For example, Chief Tafa Bologun who was convicted and his properties confiscated after he pleaded to bargain. The former Governor of Bayelsa State Chief D.S.P Alamieyesiegha is not left out.

The development of this law came as a result of acute legal research with a view of finding lasting solution to corrupt practices and safety value for sustainable development in Nigeria. Therefore research is imperative if Nigerian Society must advance and develop like other nations of the world.

Challenges of Legal Research in Sustainable Development

The subject matter of legal research includes human beings, the society and legal relations.

Human beings as object of legal relations:

Human beings may be individual or as member of the society. In the second case, human beings may be examined as members of mankind, the society as a whole as members of a particular class of people of social strata. The attitude of members of the society towards legal precept and legal research is dictated by the relationship which the law sets out to establish or regulate at any particular time and place. Legal research whether doctrinal or non-doctrinal is awareness of judicial creativity associated with growth in the law for sustainable development of any given society. Unfortunately, little or no attention is paid to legal research. The traditional funding method or little fund often budgeted for legal research in public universities is hardly accounted for. To worsen matter, the government hardly contributes to legal research and ironically helps in shifting the climate for legal innovation. In developing country like ours where legal research is now on the increase, the researchers are faced with series of hurdles which they have to pass through before they can get their required information. This is mostly noticed in the library and government departments where several officers will have to be met before information is given out to the researcher. This does not encourage legal research for sustainable development in any society that intends to grow and advance legally, economically and socially in all human endeavors. Again, many people have special liking for secrecy and avoidance of societal stigma. A legal researcher may have challenges with research area of the law, especially if the research is dealing with

people's secret life and such people because of the fear of exposure of their private life, may be reluctant to give information to the legal researcher. For example, cases of rape and defilement are majorly kept secret by the victims of such crime because of the societal stigma and exposure of their private life may be reluctant to give vital information to the researcher. This is common mostly when such information needed for the legal research brings about retrospection into the victim's past unpalatable life. No doubt, it will affect the research result that could bring about sustainable development in our society.

In the course of carrying out legal research, issue of limited funds is another hiccup for legal researchers. The challenges of finance cannot be waved aside; this is because the facilities available to legal researchers for a successful research work are very limited and expensive. The student or lawyer has to look for substantial funds from different sources to finance their research work. Limited infrastructural resources such as power supply, good road to facilitate movement, means of transportation, accessibility to internet facilities for gathering information is quite expensive to maintain to a beginner and old legal researcher in a bid to develop and sustain new legal ideas which could bring about sustainable development in our society.

Another important challenge in Nigeria that militates against legal research in providing sustainable development is illiteracy. The level of illiteracy in our country has posed a serious threat to legal research. This can be seen from the fact that it is impossible for people who cannot read and write to appreciate the need to supply relevant information for legal research. If they do, some elements of doubt bordering on accurate and incomplete information would be created in the minds of the legal researcher which would greatly affect the validity and reliability of such result, and that have a multiplier effects on the development of the Nigerian society.

Furthermore, lack of motivation of legal researchers in the Nigerian society is another factor that has worked against sustainable development. Nothing disturbs a legal researcher than absence of motivation. In developed countries both governmental and non-governmental bodies encourage legal researchers by giving incentive to such persons whom are willing and ready to carry out legal research that will bring sustainable development to the country. For instance, in the United States most legal researchers are sponsored, likewise Great Britain.

Conclusion

In legal research, knowledge is added to, problems are solved, inadmissible view points are refuted and scholarly conclusions are formulated to enhance and invigorate sustainable development strides in any society. Therefore, legal research is the device in any human organized dynamic society in continuous search for reasoned and clearly expounded answer in a sustainable development field of human endeavor which can stand the test of time not only for this generation, but for generation yet unborn. The Nigerian society is dynamic, hence legal research will continuously be undertaken to reflect the existing reality that would bring about sustainable development in spite of various challenges that would confront legal researchers in our society, if Nigeria wants to compete in the prevailing legal knowledge and

economy, its policy makers must ensure that the research department of the universities are adequately funded.

Recommendations

1. Sustainable development of any nation will stand on laws which are developed by legal researchers to protect the society against criminality. This can be achieved by training and retraining of legal researchers on how to carry out legal research using modern technology instead of producing many intellectual work with minimal or no impact on the development and productivity of Nigeria.
2. Government should spend more on legal researchers who are willing and ready to assist Nigeria on developing laws that will bring about sustainable development in all fields of human endeavor. This could be achieved by keying into the African Research Universities Alliance (ARUA) whose aim is to build indigenous research excellence as a vital precondition for the continent to develop and exert control over its future. No doubt, the alliance shares the aims of other research universities consortiums around the world such as the League of European Research Universities and the Group of Eight in Australia. These institutions advocate strengthening research and postgraduate training in higher education.
3. Private individuals and Non-governmental Organizations (NGO) as well as professional bodies such as the Nigerian Bar Association and the Law Teachers Association of Nigeria should finance and encourage legal research programme in Nigeria that would foster an enabling environment that will attract and sustain development in Nigeria through foreign participation.
4. Professional bodies like the Nigerian Bar Association and Law Teachers Association of Nigeria should embark and encourage legal researchers through programme by establishing legal research centres in each of the geo-political zone of this country, where issues on law for sustainable development are raised and discussed with a view of finding lasting solutions to our problems through Bills forwarded to the National Assembly.
5. The government, private individuals and NGOs should encourage the reward approach to stimulate and sensitize the legal researcher into finding solutions into perennial problems affecting sustainable development in Nigeria. This method may galvanize lawyers and law students to seek for legal research as a paid job and be serious in that direction.

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