ADVANCING ENVIRONMENTAL JUSTICE AND SUSTAINABILITY THROUGH ENVIRONMENTAL DEMOCRACY IN NIGERIA*

Abstract

Environmental justice entails 'fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development imperatives, implementation, and enforcement of environmental laws, regulations, and policies. In other words, your health should not suffer because of the environment where you live, work, play or learn.' Environmental justice also entails effective public engagement, involvement and, in fact, public sector integration in environmental policy initiation, implementations and decision making. The pertinent question therefore is: why should the public participate in environmental decision-making? Doctrinal research methodology was utilised to explore legal and interdisciplinary literature such that primary sources like statutes, case law and secondary sources like books and journals, etc, were explored to yield black letter data analysed in this paper. In the end, we found out that environmental democracy is new to Nigeria, that government rarely involves the masses in taking decisions in environmental issues, that the Nigerian public hardly utilises the created space opportunity to crave government indulgence to public feelings on certain policies affecting the environment, that the public utilise their created space rights, government will either stifle them or pay deaf ears to the public clarion call for a policy review or change and that the public awareness in this regard is still in its lowest ebb. We recommended, inter alia, inculcation of the principles of environmental democracy in national laws, increasing the frontiers of public participation by encouraging and inviting public participation, featuring expert in policy initiatives and implementation, and increasing public awareness in environmental issues.

Keywords: Environmental Justice, Sustainability, Environmental Democracy, Nigeria

1. Introduction

Environment is generally conceived in terms of the component of the earth, and includes (a) land, water and air, all layers of the atmosphere (b) organic and inorganic matter and living organism and (c) the increasing natural system that include components referred to in paragraph (a) and (b).[1] Howbeit conceived, the environment encapsulates the totality of all components of the earth. This, of course, includes man, land, water and air; the totality of all the things that make up the inhabited earth and their interactions *inter se*. This definitely includes the impacts and influences of anthropogenic factors on other sundry components of the environment: animals, the forest, the ecosystem, coupled with such other factors as the threat of increasing population *vis-a-vis* decreasing natural resources, human impact on animal population and natural landscape, deforestation and threat to endangered species, consequent increase in the use of hydrocarbon fuel, threat of food insufficiency and good housing and varied aspects of recourses depletion.[2] Study reveals that man's attitudes to the environment have persistently predisposed the environment to towards plundering and neglect.[3] Sundry and persistent environmental neglect has plunged man into doom which is manifested in all shades of vagaries of environmental problems.[4] Man therefore has come to realise that the ecosystem is more complex than was initially imagined and are intricately knit with other ecosystem. This means that human changes in one ecosystem through environmental pollution or deliberate manipulation may cause disruption of the ecosystem which may pose varied vagaries including the danger of extinction.[5]

The United Nations, through her various specialised organs, has responded to salvage the environment through several treaties, protocols and declarations starting from the Stockholm Declaration 1972. According to the Stockholm Declaration on the Environment[6]

> Man is both creature and molder of his environment, which gives him physical sustenance and affords him the opportunity for intellectual, moral, social and spiritual growth. In the long and tortuous evolution of the human race on this planet, a stage has been reached when, through the rapid acceleration of science and technology, man has acquired the power to transform his environment in countless ways and on an unprecedented scale. Both aspects of man environment, the natural and the man-made are essential to his well-being and to the enjoyment of basic human rights – even the right to life itself.

Since the environment affects people's wellbeing cum economic development the world over, protection and improvement of the environment is not a flimsy issue to be toyed with. Environmental deterioration will, of course, adversely affect all and sundry, thus, municipal governments of all the states of the world should take up the gauntlet, borrow from the international standards and safeguard the environment. The Stockholm Declaration on the Environment again is instructive:

> Man has constantly to sum up experience and go on to discovering, inventing, creating and advancing. In our time, man's capacity to transform his surroundings if used wisely, can bring to all people the benefits of development and the opportunity to enhance the quality of life. Wrongly or heedlessly applied, the same power can do incalculable harm to human beings and the human environment. We see around us growing evidence of man-made harm in many regions of the earth: dangerous levels of pollution in water, air, earth and living beings: major and undesirable disturbances to the ecological imbalance of the biosphere: destruction and depletion of irreplaceable resources: and gross deficiencies

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[1] Section 61, Environmental Impact Assessment Act, Cap *E12*, Laws of the Federation of Nigeria 2010.

[2] C. A. Omaka, *Minicipal and International Environmental Law* (Lion Unique Concepts: 2012) p. 2

[3] J. Kalisky and L. Kaliska, 'Man's Attitudes towards Nature and Animal Questionaire' *Studiaia Ecologiae Bioethicae*. Vol. 18(4), (2020) pp 29 – 37.

[4] It is reported that the biggest environmental issues in 2022 includes: global warming from fossil fuel, poor environmental governance, food wastage, biodiversity loss, plastic pollution, deforestation, air pollution, melting ice caps and sea level rise, ocean acidification, agriculture, food and water insecurity, fast fashion and textile waste, overfishing and cobalt mining, etc. N.A, Earth.Org, '14 Biggest Environmental Problems of 2023' avalaible online at https://earth.org/the-biggest-environmental-problems-of-our-lifetime/ accessed on 3rd February, 2023 by 1: 23 am.

[5] C. A. Omaka op cit,

[6] Adopted during the United Nations Conference on the Human Environment held in Stockholm from 5th – 16th June 1972. For more details on the declarations, T. Okonkwo, *The Law of Environmental Liability* (Lagos: AEDE, 2010) p. 38

harmful to the physical, mental and social health of man, in the man-made environment, particularly in the living and working environment.[7]

Democracy has been said to be 'a positive political process for working toward liberty, equality, and fraternity, and that, though it bears in itself the means of improvement, it can never lay claim to perfection without destroying its essential nature'.[8] The attainment of democracy envisages factual partnership in the conduct of the affairs of society in which men (citizens) work in equality and complementarity, drawing reciprocal advancement from their diversity.[9] Ensuring that free political competition characterise the processes of acceding, wielding and alternating power are the product of open, free and non-discriminatory participation by the people, dominated by the letters and spirit of the rule of law, has been acclaimed as the mandate of democracy[10] Thus, environmental democracy has been conceived in terms of 'rights of access to environmental information, participation in decision-making and access to justice.[11] The trio create prospect for the public to weight on their conditions of living and environment and empower individuals to have an astute contributions in decisions affecting sustainable development. These access rights were sanctioned globally through the Rio Declaration of 1992 signified by 178 governments and in 1998 by the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters ratified by 39 countries.[12] All these are in furtherance of Principle 2 and 3 of the Stockholm conference which asserts that:

> The natural resources of the earth must be safeguarded for the benefit of the present and the future generation through careful planning and management and that the capacity of the earth to produce vital renewable resources must be maintained and wherever practicable restored or improved. What is needed now is a new era of economic growth, a growth that is forceful and at the same time socially and environmentally sustainable.[13]

The General Assembly of the United Nations earlier declared that: 'Natural resources are limited and in many cases exhaustible. The proper exploitation determines the conditions of the economic development of the developing countries both presently and in the future.'[14] It is on this backdrop that we explored lessons and impediments to the advancement of environmental justice and sustainability through environmental democracy in Africa, especially given that Africa constitutes over 16 percent of the world population[15] and the worst hit continent by environmental vagaries.

2. Conceptual Clarification

Environment and Sustainable Development
Environment is generally conceived as: 'The totality of physical, economic, cultural, aesthetic and social circumstances and factors which surround and affect the property, and which also affect the quality of people's lives – the surrounding conditions, influences or forces, which influence or modify'.[16] The whole complex of physical, social, cultural, economic, aesthetic factors which affect individuals and communities and ultimately determine their form, character, relationship and survival is referred to as the environment. This means that the environment encompasses total planetary inheritance; the totality of all resources including all the biotic and abiotic factors that influence each other.[17] The environment obviously supplies both renewable and non-renewable resources of the earth,[18] assimilates waste, sustains life by providing genetic and bio diversity and also provides aesthetic values like scenery, etc. For the environment to be sustained, it must have to be able to render these functions without any interruption so long as the demand on the resources is effectively managed to remain within the carrying capacity of the environment. Otherwise, the environment will become over tasked. Over-tasked environment results to environmental crises occasioning vagary feedbacks which impair life sustenance.[19] This is the situation today all over the world. Many resources have become extinct and the wastes generated are beyond the absorptive capacity of the environment.

Sustainable development has been conceived in terms of development that will allow all future generations to have a potential average quality of life that is at least as high as that which is being enjoyed by the current generation.[20] The concept of sustainable development was emphasised by the United Nations Conference on Environment and Development (UNCED). The conference asserts of sustainable development as 'Development that meets the need of the present generation without compromising the ability of the future generation to meet their own needs'. In 'Our Common Future' sustainable development was defined as 'meeting the basic needs of all and extending

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[7] T. Okonkwo, op cit

[8] O. Oko, 'Consolidating Democracy on a Troubled Continent: A Challenge for Lawyers in Africa' *Vanderbilt Law Review* vol. 33 (2021) pp. 573 – 644.

[9] Cherif Bassiouni, et al, (eds), *Democracy: Its Principles and Achievement* (Geneva: Inter-Parliamentary Union, 1998) p IV

[10] *Ibid*.

[11] Csaba Kiss,, *et al, Environmental Democracy: An Assessment of Access to Information, Participation in Decision-making and Access to Justice in Environmental Matters in Selected European Countries*, A European Regional Reports, (The Access Initiative) p. 19 available online at: http://creativecommons.org/licenses/by-nc-nd/2.5/hu/; accessed on 3rd February, 2023 by 2:13am.

[12] Ibid, p. 11

[13] United Nations Conference on the Human Environment, Stockholm Declaration. 1972

[14] Preamble to the United Nations Resolution, 1966.

[15] United Nations estimates Africa's population currently at **1,430,272,955** as of Wednesday, April 19, 2023. Thus, Africa population is equivalent to 16.72% of the total world population. Source, Worldometer, 'African Population' available online at: https://www.google.com/search?client=firefox-b-d&q=population+of+africa+2023; accessed on 19th April, 2023 by 11:09pm.

[16] B. A. Gardner, (ed), *Black's Law Dictionary* (7th Edn, St. Paul Minn: West Group Publishing Co, 1999); C. A. Omaka, *Municipal and International Environmental Law* (Lagos: Lions Unique Concepts, 2012) p. 3.

[17] J. G. Rau, and D. C. Wooten, (ed) *Environmental Impact Analysis Hand Book* (McGraw Hill Publishers, 1980), 5-8.

[18] Renewable resources are those which can be used without the possibility of the resource becoming depleted or exhausted. That is, a continuous supply of the resource remains available. Examples of renewable resources are the trees in the forests and the fishes in the ocean. Non-renewable resources, on the other hand, are those which get exhausted with extraction and use, for example, fossil fuel

[19] R .John Platt and Tara Lohan, '6 Big Environmental Stories to Watch in 2022' available online at: https://therevelator.org/environmental-stories-watch-2022/; accessed on 9th May, 2023 by 2:19pm.

[20] C. J. Castro, 'Sustainable Development: Mainstream and Critical Perspectives' *Organization and Environment* Vol. 17, No. 2 (2004) pp. 195 – 225.

to all the opportunity to satisfy their aspirations for a better life'.[21] Meeting the needs of all requires redistributing resources and is hence a moral issue.[22] Edward Barbier defined sustainable development as one which is directly concerned with increasing the material standard of living of the poor at the grass root level.[23] This is quantitatively measurable in terms of increased income, real income, educational services, health care, sanitation, water supply and such like sundry incidences. In more specific terms, sustainable development aims at decreasing the absolute poverty of the poor by providing lasting and secure livelihoods that minimize resource depletion, environmental degradation, cultural disruption and social instability. Sustainable development is, in this sense, a development that meets the basic needs of all, particularly the poor majority, for employment, food, energy, water, housing, and ensures growth of agriculture, manufacturing, power and services to meet these needs. The Brundtland Commission emphasises on protecting the future generation. This is in line with the argument of the environmentalists who emphasise that we have a moral obligation to hand over the planet earth in good order to the future generation; that is, the present generation should bequeath a better environment to the future generation. At least we should leave to the next generation a stock of 'quality of life' assets no less than what we have inherited.[24] The present generation can promote development that enhances the natural and built environment in ways that are compatible with (i) conservation of natural assets (ii) preservation of the regenerative capacity of the world's natural ecological system (iii) avoiding the imposition of added costs or risks on future generations. According to Herman Daly, a leading environmental economist, to achieve sustainable development, the following needs to be done in order to effectively achieve sustainable development:

(i)   Limiting the human population to a level within the carrying capacity of the environment.
(ii)   Technological progress should be input efficient and not input consuming
(iii)   Renewable resources should be extracted on a sustainable basis, that is, rate of extraction should not exceed rate of regeneration
(iv)   For non-renewable resources rate of depletion should not exceed the rate of creation of renewable substitutes and
(v)   Inefficiencies arising from pollution should be corrected. In 2015, the UN formulated 17 Sustainable Development Goals (SDGs) intended to be achieved by the year 2030.[25]

Environmental Democracy
The word "democracy" means "rule by the people." The concept 'democracy' is used to refer to a form of government where major decisions are predicated on the majority views. It is a government where the wills of the predominating majority prevails. This does not, howbeit, precludes the minority from holding and expressing their views. In democracy, the people exercise their governing power either directly or through representatives periodically elected by the people.[26] The Lincoln's[27] definition of democracy as 'the government of the people by the people and for the people'[28] has remained the most popular and universally accepted definition of democracy. The Webster New Encyclopaedic Dictionary defines democracy as a government in which supreme power is invested in the people and exercised by them directly or indirectly through representation.[29] The etymology of the word democracy is traceable to the Greek word *demokratia* meaning "rule of the people" which was a derivative of two words *demos* meaning "people" and *kratos* meaning "power" or "rule".[30] Diamond describes democracy as a system of government with four key elements: Popper defines democracy in contrast to dictatorship or tyranny. He places emphasis on the availability of opportunities for the people to control their leaders and to them without recourse to a revolution.[31] Environmental democracy therefore is revolves around the idea that decision making and implementation involving land and natural resource should adequately and equitably address citizens' interests. At its core, environmental democracy involves three mutually reinforcing rights that, while independently important, operate best in combination: the ability for people to freely access information on environmental quality and problems, to participate meaningfully in decision-making, and to seek enforcement of environmental laws or compensation for damages. Far too often, the public is not meaningfully engaged in decisions that could affect their health, livelihoods, and culture. These three key components – access to information, participation and justice – also known as "access rights" are reflected in Principle 10 of the Rio Declaration on Environment and Development. They are at the heart of environmental democracy, embodying the procedural dimensions of the right to a healthy environment.[32]

3. Theoretical Basis

Sociological Theory of Law
The task of determining the meaning of law is never a walk over. This is because it launches one into the bottomless pit of endless legal arguments and propositions on what law is, what law ought to be and what law definitely is not. To us, in this paper, undertaking the voyage into jurisprudence to engage in these endless arguments is not within the expectation of this paper. It seems to us that when the issue of law versus its role in advancing social regulation is in issue, the sociological jurisprudence of law becomes most apt in addressing such question. It is with this conviction that we shall expose the sociological theory of law here in answer to the role of law aspect of this paper. The sociological theory of law hinges its postulations on what the law will do for the society as a whole rather than for the individual member of the society. Sociological jurists are convinced that the emergence of the society renders law inevitable, law being *sine-qua-non ante* to societal existence. To this school, law is rather seen from the functionality than conception perspective. That is,

[21] WCED, The World Commission on Environment and Development (1987)'Our Common Future ['The Brundtland Report'], p. 43.
[22] C. J. Castro, op cit.
[23] Edward B. Barbier, 'The Concept of Sustainable Economic Development' *Environmental Conservation* Vol. 14, No. 2 (1987), pp. 101-110.
[24] *Tom Kuhlman and John Farrington 'What is Sustainability' Sustainability* Vol. *2* (11), (**2010**,) pp. 3436-3448.
[25] Goals 12, 15 and 17 are all imperative in this regard.
[26] A. Appadorai, *The Substance of Politics* (New Delhi: Oxford University Press, 1968), p. 137.
[27] Abraham Lincoln (February 12, 1809 — April 15, 1865) was the 16th President of the United States of America.
[28] Cited in B. O. Igwenyi, *Modern Constitutional Law in Nigeria* (Abakaliki: Nwamazi Printing & Pub. Co. Ltd., 2006), p. 34.
[29] Cited in G.A.I. Nwogu, 'Democracy: Its Meaning and Dissenting Opinions of the Political Class in Nigeria: A Philosophical Approach,' *Journal of Education and Practice,* Vol.6, No.4, (2015), p. 131.
[30] H. G. Liddell and R. Scott, A Greek – English Lexicon, 9th edn, (Clarendon Press, 1996) cited in G.A.I. Nwogu, *op cit*., p. 131.
[31] Cited in Ian Jarvie, Karl Milford, and David Miller, (eds.), *Karl Popper: A Centenary Assessment. Volume I - Life and Times, and Values in a World of Facts* (Rickmansworth: College Publications, 2016)
[32] CIEL, 'Enviro Democracy & Access Rights' A publication of the Centre for International Environmental Law available online at: https://www.ciel.org/issue/environmental-democracy-access-rights/; accessed on 9th May, 2023 by 4:41pm.

law howbeit conceived, should ultimately function to foster social order, equilibrium and progress in a given society.[33] According to Rudolph von Jhering - the major proponent of this school,[34] laws are merely instruments for servicing societal needs. Its purpose is purely for the promotion and protection of the societal interests - this purpose should guide juridical thought and action. Jhering maintains that such law should respond to the growth and changes; shapes and shades in response to the shift in the social background of the extant.[35] To Jhering, law is not a formal system of rules. It is rather a prime technique of ordering society. This ordering is imperative since the society is usually composed of a labyrinth of interests, which are often competing, conflicting and contradictory. An unfettered clash of these interests throws the society into chaos and anarchy, thus could hinder progressive development of such society. Jhering distils motley of interests competing for satisfaction in a society and insists that all conflicts between the interest of the society and that of the individual should be resolved in favour of societal interest.[36] Eugen Ehrlich correspondingly posits that the clear conception of the positive law dovetails in the social norms of the 'living law'. The 'living law', in Ehrlich's conception is 'the inner order of association', that is, the law practiced by society and enforced by the state. [37] He identified the living law as the rules or norms dominating societal life even though it has not been entrenched cast into legal propositions. He is of firm conviction that: "At the present as well as at any other time, the centre of gravity of legal development lies not in legislation nor in juristic science nor in judicial decisions but in society itself.'[38] Ehrlich cautioned that a lawyer should, in essence, be apprised with the nature of the 'inner order' and the 'living law' as well as the formal rules of law since equating law with the formal rules gives a mirage picture of the natural law.[i] The inner order in the context of this paper is synonymous with the natural order of environmental equilibrium in which all components of the environment exists in natural sanity and unexploited. The law as a means of social engineering, which social control includes environmental engineering should regulate, shape and focus all facets of social attitudes and channel same to environmental equity. Public sector involvement through a robust culture of environmental democracy is *sine-qua-non* for entrenching optimum regulation canvassed by the sociological jurisprudence.

Environmental Democracy in Focus

Popular Democracy Argument
This school of thought hinges public participation in environmental issues and decisions on democratic theory of popular and effective participation. Modern democracy envisages public participation in establishment, running, control and shaping of government and its policies and programme.[39] In democracy, people exercise government power either directly or indirectly via periodically elected representatives.[40] The size and complexity of modern states has however led to a shift from the Greek 'City state' democracy to representative democracy. In a representative democracy, professional political elites make the decisions that could be positive sum for the electorate[41] In representative democracies, people have only indirect connections with exercising power which has been professionalised by the political elite representing them. Participation has also the function of education: on the one hand, at the individual level, teaching and enhancing democratic skills, while, on the other, at the collective level by building tolerance and empathy in the political community and trust in democratic procedures.[42] Rousseau and Mill emphasise the educating function of participation.[43] According to Rousseau the most important function of participation is education because citizens can learn how to separate their own interests from the ones of the public and they can become aware of them depending on each other rather than conflicting with each other. Rousseau saw participatory procedures as self-sustaining since the skills obtained by citizens enable them to participate in further decision-making. According to Mill citizens can learn to take other people's interests and opinions into consideration and start thinking about public interest besides their own. Participating in local decision making teaches people to govern themselves so that they learn democracy.[44] Since pure direct and participatory democracies cannot be realised in modern societies due to their size and pluralistic nature, in this sense representative democracy seems more appropriate. Participatory tools can be supplementary, by which the power of the citizens can be restored, the isolation of the elite from the non-elite groups of society can be reduced, the political participation as the basis of democracy can be ensured and democracy can be practised.[45] The plank of this theory therefore is that people should be made to participate in environmental decisions and policies just as in democracy. Environmental education and awareness is a corollary to participation. Since the issue of environment has become more dynamic and complex, direct participation may be cumbersome. This therefore validates indirect participation through the representatives of the people. State or the people's representatives owe the people regular symposium/awareness campaign to educate, thus, drive home and popularise environmental policies and decisions of any government with the people. This will, no doubt, educate the people on their roles in the implementation process of these policies and programmes.

Habermas[46] Theory
Habermas was, *inter alia*, concerned mainly with the possibility maintaining direct participation in societies of complex and pluralist nature.[47] In his argument, he maintained that in every day decision making, the political system is peculiarly self-propelling. In order to

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[33] A. Emiola, *The Principles of African Customary Law* (Emiola Publishers, 1997) pp. 11-12; D. Lloyd, *The Idea of Law* (Penguin Books Ltd., 1976) p. 199.

[34] W. Friedmann, *Legal Theory* (Columbia University Press, 1967) pp. 213 & 280.

[35] R. V. Jhering, *Law as a Means to an End*, cited in Adaramola, *op. cit.*, pp. 259-260.

[36] *Ibid.*, PP. 238-239.

[37] E. Ehrlich, *Fundamental Principles of the Sociology of Law* (Harvard University Press, 1936) p. xxxii.

[38] *Ibid.*, p. xx. See also Friedmann, *op. cit.*, p. 248.

[39] The CFRN 1999 as amended provides that sovereignty belongs to the people of Nigeria. This means that government powers should be exercised for and on behalf of the people.

[40] A. Appadorai, *The Substance of Politics,* 11th edn, (Oxford: Oxford University Press, 1975), p. 137.

[41] G. Pataki, 'Public Participation Methods in Democratic Processes' Vol. 4, Nos.3-4, (2007), pp. 144-156

[42] A. Lánczi, *Democracy and Political Science* (Budapest, 2000), pp. 34.

[43] See generally C. Pateman, *Participation and Democratic Theory* (Cambridge University Press, Cambridge, 1970)

[44] *Ibid*

[45] G. Pataki, op cit.

[46] Jürgen Habermas is considered to be a major scholar of critical social theory and member of the Frankfurt School dealing with the criticism of the modern society.

[47] J. Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* (Cambridge: MIT Press, 1996) p. 351.

channel the opinions of people to this system, some deliberative platforms are indispensable to thematise and amplify the ideas, concerns and expectations of the community. These deliberative platforms legitimise the decisions made by the political system. According to Habermas: '… the discourse theory of democracy implies that the binding decisions, to be legitimate, they must be steered by communication flows that start at the periphery and pass through the sluices of democratic and constitutional procedures situated at the entrance to the parliamentary complex or to the courts'.[48] Habermas agrees that different problems are identifiable in the course of these deliberations and solutions proffered. The products of these discourses are fed back into the political centre where it is required for justification of its decisions, thereby gaining legitimacy for them.[49]

Related to democratic theories the question of communication plays an important role in the theoretical foundation of public participation. To Habermas, modern societies are battling with not only de-politicisation; the scientification of politics has similarly h mystified the useful terms. For instance, professionalising planning procedures introduces new technical terms and definitions as well as bureaucratic and legal instruments limiting the extent of public participation in the planning process. This leads to legitimizing crisis. True legitimacy can be achieved by re-politicising the society and attaining a compromise via discourse.[50] Habermas's communication theory asserts that legitimate decision can be made only where such decision is acceptable to all and sundry who is affected by the decision. Consensus by communication devoid of domination is rooted on public interest such that different interests can cross-cut and citizens influence one another through persuasive arguments. When this ideal speech situation is put in place, it ensures that decisions are not reached by mere power. Discussions inform people of what they want to achieve.[51] This theory has introduced one key concept of 'the ideal speech situation' which comprises criteria to ensure that the consensus to be reached serves general interests rather than personal ones. The criteria are as follows:

i.   All potential participants must have the same chance to initiate and perpetuate the discourse. They must be able to raise questions and provide answers throughout the discourse.

ii. All potential participants must have the same chance to express attitudes, feelings and intentions, which ensures that there is no internal constraint on the participants and they are supposed to be honest and sincere to themselves and to the others.

iii. All potential speakers must have equal chance to command and oppose, permit or forbid arguments. They must have equal opportunity to make and accept promises; provide and call for justifications.

iv. All potential participants must have equal opportunity to provide interpretations and explanations. No one's view is exempt from consideration and criticism.[52]

Habermas concludes that the ideal speech situation may be hindered reality by the external political and internal psychological constraints on the participants. The concept should therefore be used as rational standard for appraising real discourses. It can similarly be used to critically measure the existence of constraints on communication.[53]

Green Arguments

The Habermas' theory proposes that discourse acts extract a consensus which serves public interest. In environmental decisions however, the question is whether a consensus through discourse can facilitate the protection of the natural environment and whether a decision through consensus would protect the natural values. Critical theorists postulate that a participatory decision-making process would consider preservation of natural values as an ethical norm.[54] An undistorted communication system, will undoubtedly, recognise that humanity and nature are interdependent, that is, nature depends on human actions much as human beings depends on nature for survival. It would expose the human responsibility for natural environment based on ecological sciences and would integrate same into deliberations. There is an aesthetic argument too. Brulle[55] contends that despite all these arguments, discourse ethics do not guarantee that human decision would support the protection of natural values. Green vehemently criticised Habermas' theory and maintained that non-human beings and future generations cannot possibly be represented in the discourse.[56] Habermas' argument is concerned about human to human interaction which may often be manipulated and controlled in presenting the interaction between man and nature.[57] Eckersley emphasises more confidence on the precautionary principle, which ensures that the impact of decision making on non-human beings is taken into account.[58] The development of a strong public spectrum may facilitate possibility for ecological politics for fair hearing.[59] Although environmental theorists criticised discursive ethics of Habermas, communication is very significant in the theory of *environmental democracy.*[60] Communicative rationality is the pillar of Environmental democracy, but communication in this context is stretched beyond human relations to incorporate signals of the natural environment and that is how non-human beings, which cannot communicate as humans, are involved into the communicative actions.[61] Communication, deliberative democracy as well as participatory decision making are conceivably imperative tools of sustainability.[62] In environmentalism, sustainability is one of the most important

[48] *Ibid*, p.356.

[49] G. Király, R.Várnagy, 'Citizens' Jury in Kaposvár' In: Gy. Lengyel (ed.) *Deliberative Methods in Local Society Research* (Budapest: Új Mandátum, 2009) pp. 152-154.

[50] R. Kemp, 'Planning, Public Hearings, and the Politics of Discourse' In: J. Forester (ed.) *Critical Theory and Public Life* (Cambridge: MIT Press, 1985) pp. 177-201.

[51] See generally, G. Felkai, *Discourse Ethics and the Ideal of Democratic Political Processes'* in J. Habermas, Communicative Ethics (Budapest: Új Mandátum, 2001).

[52] R. Kemp, op cit., pp. 187-188

[53] R. Kemp, op cit., pp. 188.

[54] R. J. Brulle, 'Habermas and Green Political Thought: Two Roads Converging' *Environmental Politics*, 11(4), (2002), pp. 1-20.

[55] *Ibid.*

[56] R. Eckersley, 'The Discourse Ethic and the Problem of Representing Nature.' *Environmental Politics*, 8(2), (1999), pp. 24–49.

[57] J. S. Dryzek, 'Political and Ecological Communication.' In: G. Sheiring, and B. Jávor (ed.), *Reader in Green Political Philosophy* (Budapest: L'Harmattan, 2009), pp. 581-599.

[58] R. Eckersley, op cit.

[59] R. J. Brulle, op cit., p. 16

[60] J. S. Dryzek, op cit.

[61] *Ibid*

[62] M. Arias-Maldonado, 'An Imaginary Solution? The Green Defence of Deliberative Democracy' *Environmental Values*, 16(2), (2007), pp. 233-252.

and contested concepts.[63] Public participation is intricately linked with the concept of sustainable development in 'Our Common Future' and delineates particular relations between them. Social justice is pointed as one of the foremost criteria for sustainable development. Social justice can be achieved by integrating economic, social and ecological perspectives in decision making and providing the responsibility for the decisions.[64]

> Such equity would be aided by political systems that secure effective citizen participation in decision making and by greater democracy in international decision making. The law alone cannot enforce the common interest. It principally needs community knowledge and support, which entails greater public participation in the decisions that affect the environment.[65]

In order to realise this brand of knowledge and support, unbridled access to applicable information and the availability of substitute sources of technical expertise is mandatory. These ideas in international politics and law, no doubt, culminated in the Aarhus Convention.[66] Sustainability subsumes public participation as a tool to harmonise the society and the natural environment. Outside the concept of sustainability, various green approaches exist that justify the requirement of public participation in environmental decision making and varied models of democracy. Deliberative democracy is therefore recommended as the proper model of democracy best suited for sustainability and environmental values. In the green argument, the ultimate aim is not the end of democracy but realisation of environmental democracy. Environmental democratic theory adapts the combination of representative and deliberative democracy to proffer solutions to environmental problems as well as to preserve human and natural values.[67] Five reasons in defence of green deliberative democracy were discussed as follows:

i. environmental values emerge more easily in deliberative contexts
ii. the inclusive character of deliberative democracy makes the incorporation of traditionally excluded actors and voices into the democratic processes possible
iii. deliberative democracy is the best arrangement for developing environmental citizenship
iv. deliberative democracy is the best way to combine expert judgement and citizen participation in decision making processes
v. deliberation and inclusion lead to more legitimate and efficient decision-making on sustainability.[68]

It should be pointed out that deliberative democracy is a means to an end and not the end to environmental problems. It is the way forward to environmentally advantageous or at least, less harmful decisions to be attained. It can deliver environmental advantages and improvement, but one cannot expect that deliberation itself would green the society. According to Arias-Maldonado, "…environmentalism can only provide its commitment to democracy, not democracy's commitment to green values."[69]

Arguments on Risks
Beck[70] argues that in modern societies, the social production of wealth is scientifically accompanied by the social production of risks. Accordingly, '[A]s the risk society develops, so does the antagonism between those afflicted by risks and those who profit from them. The social and economic importance of knowledge grows similarly…'[71] Public participation, in risk research, has overriding consequences in risk assessment and management. In deliberative processes different risk perceptions are considered. Different assessments can introduce new perceptions into the discussion, which suggest new information, knowledge and values. Public participation in conflicts pertaining to environmental risks plays an important role by contributing to processes of conflict resolution or prevention. In risk research there exists a general belief that the impartial assessment of risks is impossible (technical approach) since assumptions about reality vary and experts are often subjective.[72] This is the technical approach. Apart from the technical approach, other approaches in risk assessment exist. The economic approach, for instance, measures both the undesirable and desirable consequences. The psychological approach assesses risk as subjectively expected risks that are not (or only to a certain extent) based on statistical data and former experience. Assessment is based rather on how well-known and dreadful the risks.[73] In the sociological-anthropological approach, people not only rely on their personal perceptions but are also influenced by their social status, cultural background when they assess risk, which is investigated by assessing risks based on common values, interests, knowledge, beliefs and ideologies.[74] Ortwin Renn, is of the firm view that participation issues can be measured from the perspective of risk analysis. To Renn, people's everyday aspects of risk (that affects the perceived riskiness of an object or activities) are based on the following factors:

i. the expected number of fatalities or losses
ii. the catastrophic potential of the risk
iii. the context in which the risk is taken: e.g. possibility of personal control, equal share of risk and benefit, identification of responsible institution, judgment of threat and consequences

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[63]S. Kerekes, '*Happiness, Environmental Protection and Market Economy.' Society and Economy*, 33(1), (2011), 5-13; see also L. Molnár, 'Are Concepts of Justice in Political and Environmental Philosophies Compatible?' *Periodica Polytechnica Social and Management Sciences*, 6(2), (1998), pp. 129 - 144.

[64]United Nations, *Report of the World Commission on Environment and Development: Our Common Future.* (1987); available online at: http://upload.wikimedia.org/wikisource/en/d/d7/Our-common-future.pdf; Accessed on 28th August, 2023

[65] Ibid, 16 and 56.

[66]Titled: Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters in 1998. See J. R. Palerm, 'Public Participation in Environmental Decision Making: Examining the Aarhus Convention*'. Journal of Environmental Assessment Policy and Management*, 1(2), (1999), pp. 229-244.

[67]A. Anta, 'The Theory and Practice of Environmental Democracy*' cited in* Jonathan Pickering, Karin Backstrand and David Schlosberg, 'Between Environmental and Ecological Democracy: Theory and Practice at the Democracy-Environment Nexus' *Journal of Environmental Policy and Planning*, 22(1), (2020), pp. 1-15.

[68]M. Arias-Maldonado, op cit.

[69] *Ibid*, p. 246.

[70]See generally, U. Beck, *Risk Society: Towards a New Modernity.* (London: SAGE, 1992).

[71]*Ibid*, p. 46.

[72] K. Faragó, A. Vári, *'Risk'* In: Zoltayné Paprika (ed.), *Decision Theory*, (Budapest: Alinea Kiadó, 2005)pp. 447-484.

[73] P. Slovic, 'Perception of Risk.' *Science*, 236(4799), (1987), pp. 280-285; K. Faragó, A. Vári, op cit.

[74] A. Anta, op cit.

iv.   the beliefs associated with the cause of risk.[75]

This list of factors reveals that public perception of risk is a multidimensional concept and cannot be reduced into single probabilities and consequences. The argument is that opinions differ not only between experts and pedestrians but also among experts inter se as well as among the variety of social groups in terms of assessing environmental risks. Different risk perceptions in environmental decisions therefore introduce debates or, in other words, conflicts.[76] These conflicts over environmental risks display differential knowledge, vested interest, value conflict, and mistrust of expert knowledge.[77] Howbeit the conflict or its nature, it is obvious that while ideologies clash inter se, neither factual data nor practical experience can rally round the participants to reach conformity. According to Renn[78] the debate on environmental risks is based on values, which is fated on the premise that society is obsessed with environmental problems, the perceived ambiguity of technical change and the overall decline of trust in public institutions. The institutional level is characterised by the lack of trust. So the issue of environmental risk is well beyond the technical and institutional levels. The conflict is debated on the level of values. If the resulting conflicts cannot be resolved, this will lead to further erosion of trust and personal frustration. Therefore, rational discourses are needed to ensure the appropriate conditions for the debates. The conditions of the rational discourse are set by an appropriate risk communication framework.[79]

Science and Society Arguments

Dietz and Stern are of the view that nature's conflicts are multidimensional, urgent, scientifically uncertain, value conflicts and uncertainty. Science, per se, has been unable to resolve conflicts of this nature.[80] Science therefore has to brace up with the complex and uncertain natural systems in so far as the urgent issues, the enormous liability of the resultant effects of decision making and the varied human values and opinions are concerned.[81] Post-normal science has to shift from the standard conventional role and scientists have to face the challenges of the present. Post-normal science has to discard the fantasy of ethical neutrality and interpret the inclusion of stakeholders into the process of scientific analysis. Coping with the complexity and uncertainty of social-ecological systems entails linking the stakeholders into decision making processes in order to enhance their adaptive capacity and competency as well.[82] It is contended that *social learning* can be stimulated and facilitated by participatory processes. Through participation the change of understanding could go beyond the individuals and can become situated within wider communities. Participation can facilitate a social learning process when people learn from each other and from scientist as well and start a social change.[83] Building new relationships between science, society and policy makers could be one of the aims of public participation. The lack of trust among public institutions and corporations is significant in environmental issues, since governments and businesses were contributing to the problems and made plenty of incorrect decisions in the past. The lack of trust undermine public programs on sustainable development from being implemented locally, since citizens cannot see how these institutions responsible for the problems are able to solve them.[84] Therefore it is indispensable to embody a new relationship between policy makers, science and people. Making science useful for policy and people responsible for its judgements it is necessary to combine science with deliberations and to make decisions through an analytic-deliberative process which enables a structural discourse among the scientists, decision makers and various interest groups.[85]

Behavioural Arguments

Public participation in environmental decision making currently surfeits the literature of *behavioural economics.* It has gained the attention of scholars and is widely discussed thus, has produced another argument for participation.[86] Accordingly it is the basic need of every human being to participate in the decisions that define the circumstances of everyday life. Recent research shows that the individuals who have the right to make decisions had higher quality of life in the physical as well as psychological senses. Results of researches reveal that the capacity to take decisions in working life has a momentous impact on people's quality of life and health.[87] Research also demonstrates that people tend to embrace more the decisions or recommendations in which they were involved in the decision making process. The opportunity to make decisions is a basic need for human beings and where people had no opportunity to control the decisions on their circumstances of life they became passive and apathetic.[88]

4. Democracy in Environmental Decision-Making

Currently one of the most critical issues in sustainability and environmental protection is public participation. This emphasises why policy-makers should strive to achieve intelligibility in the application of input to improve public participation in decision making processes. The 2030 Agenda for Sustainable Development which was created using unprecedented public outreach is a good example. Over 7.5 million people from more than 190 countries participated in the United Nations' global online survey on the 2030 Agenda.[89] The need for more inclusive democratic participation is also entrenched in the Sustainable Development Goals (SDGs) themselves. Goal

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[75]O. Renn, 'Risk Communication: Towards a Rational Discourse with the Public.' *Journal of Hazardous Materials,* 29(3), (1992) pp. 465-519 at 477.

[76] Conflicts can be defined as competition between the parties to achieve goals and interests.

[77] T. Dietz, and P. C. Stern, 'Science, Values, and Biodiversity.' *Bioscience*, 18(6), (1998), pp. 441-444.

[78]O. Renn, 'Risk Communication: Towards a Rational Discourse with the Public.' *Journal of Hazardous Materials,* 29(3), (1992) pp. 465-519.

[79]Risk communication is defined as any purposeful exchange of information about health or environmental risks between interested parties. O. Renn, op cit., p. 467.

[80] Dietz, and P. C. Stern, 'Science, Values, and Biodiversity.' *Bioscience*, 18(6), (1998), pp. 441-442

[81]S. O., Funtowicz and R J. Ravetz, 'Science for the Post-normal Age*' Futures*, 25(7), (1993) pp. 739–755.

[82]M. S. Reed, et al., '*What is Social Learning?' Ecology and Society*, 15(4) (2010).

[83]R. Rodela*, 'Social Learning and Natural Resource Management: the Emergence of Three Research Perspectives.' Ecology and Society*, 16(4), (2011), p. 30.

[84]P. Macnaghten, and M. Jacobs*, 'Public Identification with Sustainable Development: Investigating Cultural Barriers to Participation' Global Environmental Change*, 7(1), (1997), pp. 5-24.

[85] T. Dietz, and P. C. Stern, op cit.

[86]G. Király, '*The needs and possibilities of public participation in Hungary'* In: Gy. Pataki, V. Fabók, B. Balázs, (eds.) *Environment, Participation, Democracy in Hungary* (ESSRG, Budapest, 2012), pp. 11-34

[87] *Ibid*

[88]G. Király, op cit.

[89]O. Fox, and P. Stoett, 'Citizen Participation in the UN Sustainable Development Goals Consultation Process: Toward Global Democratic Governance?' *Global Governance*: A Review of Multilateralism and International Organizations, 22(4). (2016)pp. 555–574.

16 specifically provides for "responsive, inclusive, and participatory and representative decision making at all levels"[90] Notwithstanding this commitment, coordinated action aimed at improving public participation seems not to have received commensurate attention as other SDGs — such as building resilient infrastructure or encouraging sustainable consumption. The fact that public participation was the central topic at the 2019 High-Level Political Forum on Sustainable Development offers a beacon of hope on the propensity to improve on public participation generally.[91]

Rationales for Expanding Public Participation

Policy-makers and environmental advocates believe that public participation is innately good in itself regardless of its outcome. Involving impacted communities and other stakeholders in decision-making process is a basic tenet of democracy.[92] Public participation is inherently a means to an end. Public participation, for instance, can improve the quality of decision-making by apprising decision-makers of local circumstances and peculiarities.[93] Knowledge of the locality plays an exceptionally important role in implementing international commitments, like the 2030 Agenda on Sustainable Development. While the 17 Sustainable Development Goals are global in scope, actual policy development and implementation of these goals takes place at the national, regional and local domain. Policy-makers must transform the global targets to mirror real-world conditions.[94] Top-down implementation devoid of widespread public input can turn out policies that take no consideration of local priorities and specific development contexts.[95] Public participation similarly increases the legitimacy of the decision-making process thereby improving policy implementation by reducing conflict. Scholars are in agreement that the tendency of the public accepting or rejecting a decision hinges on the conviction of the public on the fairness or otherwise the decision-making process.[96] Creating the opportunity for the public to participate in decision-making helps trounce deficits in democracy, such as mistrust on the part of political leaders, flagging faith in public agencies, and voter apathy.[97] In the same vein, public participation also tackles the distrust resultant from the preponderance of experts in environmental decision-making. Scientific experts are imperative to environmental policy-making, since most environmental problems as ozone layer depletion and climate change, are discernible via science and technology.[98] Similarly, overreliance on technical experts can present political issues mainly as scientific questions, thereby blocking other concerns from public debate as accountability, equity and other values.[99] Where explicit language is lacking alongside space for political debate, science assumes the target and subject of debate. This often leads to doubts and deadlock as shown in climate change policy-making.[100] Involving the public in decision-making has the prospect of reinvigorating debate, thus, enhancing policy-making. Ultimately, public participation has to be devoid of hypocrisy in order to yield expected result. Therefore for public participation to improve democratic practice, it has to be inclusive. Likewise, the right people, that is, the people with unique information, has to be involved for public input to improve the quality of decision-making.[101] Conversely, public participation can rear distrust and conflicts where the public are not convinced that the process is fair.

Environmental Democracy in Practice: Invited and Created Spaces

The advocacy to broaden public participation has rapidly proliferated public meetings, advisory committees and other government initiatives distinctively intended to boost citizens' involvement in the decision-making process[102] Public input, howbeit, is not limited to formal participation apparatus. Pressure is also emanating from civil society and social movements outside the political process. This mobilization employs a variety of tactics such as community forums, neighbourhood coalitions and petitions to manipulate policy development. In fact, virtually all controversial decisions today are formed by both structured public participation and mobilization. Public participation may take the form of invited or created spaces.

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[90]United Nations General Assembly 2015, Sustainable Development Goals

[91]The theme for the forum is 'Empowering People and Ensuring Inclusiveness and Equity'.

[92]J. Newig, Does Public Participation in Environmental Decisions Lead to Improved Environmental Quality? Towards an Analytical Framework, Communication, Cooperation, Participation (International Journal of Sustainability Communication), 1(1), (2007) pp. 51–71.

[93]J. Newig, op cit.; A. Cornwall, Unpacking 'Participation': Models, Meanings and Practices' *Community Development Journal*, 43(3), (2008) pp. 269–83.

[94]P. Fenton, and S. Gustafsson, 'Moving from High-level Words to Local Action - Governance for Urban Sustainability in Municipalities' *Current Opinion in Environmental Sustainability,* 26–27, (2017) pp. 129–33.

[95]O. Fox, and P. Stoett, op cit.; B. Richardson, and J. Razzaque, 'Public Participation in Environmental Decision-Making.' In: Richardson, B. and Wood, S. (eds), *Environmental Law for Sustainability* (Oxford: Hart Publishing, 2006) pp. 65–194.

[96]H. Bulkeley, and A. P. J. Mol, Participation and environmental governance: consensus, ambivalence and debate. Environmental Values, 12(2), (2003) pp. 143–54; K. Murphy, The role of trust in nurturing compliance: a study of accused tax avoiders. Law and Human Behavior, 28(2), (2004) pp. 187–209.

[97]R. Dalton, Citizen Politics: Public Opinion and Political Parties in Advanced Industrial Democracies. (Washington DC: SAGE Publications, 2008); M. Welp, B. Kasemir, and C. Jaeger, 'Citizens' Voices in Environmental Policy: The Contribution of Integrated Assessment Focus Groups to Accountable Decision-Making.' In: F. H. J. M Coenen, (ed.), Public Participation and Better Environmental Decisions: The Promise and Limits of Participatory Processes for the Quality of Environmentally Related Decision-Making (Netherlands: Springer, 2009) pp. 21–34; J. Newig, op cit.

[98]M. Carolan, 'Ontological Politics: Mapping a Complex Environmental Problem. Environmental Values, 13(4), (2004) pp. 497–522; S. Yearley, S. Cinderby, J. Forrester, P. Bailey, and P. Rosen, 'Participatory Modelling and the Local Governance of the Politics of UK Air Pollution: A Three-City Case Study.' *Environmental Values*, 12(2), (2003) pp. 247–262.

[99]N. Carter, *The Politics of the Environment: Ideas, Activism, Policy* (Cambridge, UK and New York: Cambridge University Press, 2001); A. Fung, 'Putting the Public Back into Governance: The Challenges of Citizen Participation and its Future' *Public Administration Review*, 75(4), (2015) pp. 513–22.

[100]C. P. Ozawa, 'Science and Intractable Conflict' *Conflict Resolution Quarterly*, 24(2), (2006), 197–205; D. Sarewitz, 'Does Climate Change Knowledge Really Matter?' Wiley Interdisciplinary Reviews: Climate Change, 2(4), (2011) pp. 475–481.

[101] J. Newig, op cit.

[102]F. H. J. M. Coenen, 'Introduction.' In: F. H. J. M. Coenen, (ed.), *Public Participation and Better Environmental Decisions: The Promise and Limits of Participatory Processes for the Quality of Environmentally Related Decision-Making.* (Netherlands: Springer, 2009) pp. 1–10; A. Fung, 'Varieties of Participation in Complex Governance' *Public Administration Review,* 66 (2006) pp. 66–75; A. Fung, 'Putting the Public Back into Governance: The Challenges of Citizen Participation and its Future.' *Public Administration Review,* 75(4), (2015)pp. 513–22; G. Smith, *Democratic Innovations: Designing Institutions for Citizen Participation.* (Cambridge: Cambridge University Press, 2009); G. Smith, 'Options for Participatory Decision-Making for the Post-2015 Development Agenda.' (2014). Available Online at: http://www.fdsd.org/site/wpcontent/uploads/2015/04/Options-for-participatory-decision-making-paper.pdf; accessed on 26th September, 2023.

Invited Spaces

A rapid increase in formal, state-based instruments to expand public participation in decision-making has been witnessed from the 1990s. Each of these apparatuses "invites" the public to get involved, thus, play its paradigm role in a representative democracy beyond voting.[103] Different approaches are required in different goals and contexts.[104] "Participatory democracy" is one approach which solicits views and concerns from important stakeholders during the decision-making process.[105] Commonly used invited spaces in traditional environmental decision-making - environmental impact assessments, strategic environmental assessments, and public inquiry mechanisms, exemplify this approach.[106] "Deliberative democracy" is an alternative approach to invited public participation and centres on facilitating collaborative exchange with respect to a set of policies or actions. Deliberative democracy normally takes the shape of "mini-publics" or citizen assemblies. Members of the public are therefore invited to participate in processes of "sense-making, problem-solving, and painstaking judgement"[107] The internet offers a wide range of opportunities for combating the limitations of distance and mobility in this concern through zoom and the social media platforms.[108] Scholars affirm that there exist large gaps in access to technology and competence both transversely and domestically across nations. Consequently, much reliance on new technologies to increase participation may strengthen existing imbalance.[109]

Created Spaces

Civil society groups also utilise other assortment of techniques to transmit feedback to policy-makers, thus make input on policy development. Such techniques as organising informational forums and citizen awareness initiatives on topical issues avail stakeholders, groups or citizens in this regard. The opportunities which these groups, stakeholders or citizens create for themselves to express, transmit or interface with policy-makers or decision makers is referred to as *created spaces*. Created spaces may materialize as a result of dissatisfaction of the public with the accessible invited spaces.[110] Invited and created spaces are frequently extremely intertwined. For instance, a section of the public was mobilised against the construction of a biological testing facility in Bishkek. Advocacy groups utilised internet resources and a petition to cultivate awareness of the facility, thus ensured that the public's concerns were transmitted to policy-makers.[111] *Clean Environment* - a local community organization similarly organised several public forums. The Bishkek City Council in turn organised a public hearing in response to the activities of the public groups. Advocates' impacts through the use of created spaces therefore impelled the local government to "invite" the public to participate. The hearing created a space for decision-makers to gain insights from the local inhabitants on the impacts of the proposed venture. It also established rapport between the government and the constituents[112] The Bishkek City Council eventually created a special commission to review the agreement, which commission observed that the government had failed to consider the interests of Kyrgyz citizens and therefore influenced the Council vote against the proposal. Another instance is the recent mobilisation against hydraulic fracturing in Newfoundland, Canada. Residents got information in November 2012, of a proposal by the Shoal Point Energy to conduct exploratory *fracking*. They proceeded to organise their own public forums, informational meetings and demonstrations.[113] This mobilisation in form of created spaces compelled the Minister of Natural Resources to set up the Newfoundland and Labrador Hydraulic Fracturing Review Panel in October 2014. The panel reviewed research on fracking and conferred with the public. Advocates directed their mind towards maximizing participation in the newly offered invited spaces. The panel finally recommended important standards for evaluating fracking proposals, including a health impact assessment. The panel also emphasised the importance of government obtaining "the communities' prior social license" in order to permit fracking.

Invited spaces are also adopted by social movements to influence policy decisions. For instance, the Colombian community of Piedras effectively challenged a close by mining via an unorthodox use of a referendum. Under the Colombian law, citizen referenda is a recognised means of integrating public inputs into issues of critical importance, it thus serves as an "invited space"[114] Before this particular incident, jurisdiction over mining was vested exclusively on the national government. Law therefore restricted municipalities from utilising referenda to standardise mining in their territory.[115] Activists in Piedras were obdurate and deeply committed to blocking new gold mining in the nearby foothills of the Los Nevados Mountains irrespective of this position of the law. The community of Piedras went ahead with a popular referendum on June 12, 2013 and delivered an unambiguous public disapproval of the mine. The Attorney General accused the Mayor and the Municipal Council of Piedras of breaching the law and the national government issued an Executive Order reaffirming the ban.[116] The legal tussle was protracted and finally culminated when in 2016; the Constitutional Court held unconstitutional the banning of municipalities from stopping mining in their territory.[117] We can therefore see that civil society

[103]O. Escobar, 'Pluralism and Democratic Participation: What Kind of Citizen are Citizens Invited to Be?' *Contemporary Pragmatism*, 14(4), (2017) pp. 416–38.

[104] T. Dietz, and P. C. Stern, op cit.

[105] O. Escobar, op cit.

[106] B. Richardson, and J. Razzaque, op cit.

[107]O. Escobar, op cit.; See also J. S. Dryzek, *Deliberative Democracy and Beyond: Liberals, Critics, Contestations* (Oxford: Oxford University Press, 2000).

[108]N. Kersting, 'Online Participation: from 'Invited' to 'Invented' Spaces.' *International Journal of Electronic Governance,* 6(4), (2013) pp. 270 -80; see generally, R. Kies, Promises and Limits of Web-Deliberation. (New York: Macmillan, 2010).

[109]G. Smith (2014), op cit.

[110]N. Kersting, op cit.

[111]J. Kasymova, and T. S. Gaynor, 'Effective Citizen Participation in Environmental Issues: What Can Local Governments Learn?' *State and Local Government Review*, 46(2), (2014) pp. 138–145.

[112] *Ibid*

[113]A. V. Carter, and L. M. Fusco, 'Western Newfoundland's Anti-Fracking Campaign: Exploring the Rise of Unexpected Community Mobilization.' *Journal of Rural and Community Development*, 12(1), (2017)pp. 98 - 120.

[114]J. A. McNeish, A vote to derail extraction: popular consultation and resource sovereignty in Tolima, Colombia. Third World Quarterly, 38(5), (2017) pp. 1128–1145.

[115]C. Strambo, and A. J. Puertas Velasco, The Changing Politics of Coal Extraction in Colombia. Discussion Brief. Stockholm Environment Institute, Stockholm, Sweden (2017).

[116]J. A. McNeish, op cit; see also C. Strambo, and A. J. Puertas Velasco, The Changing Politics of Coal Extraction in Colombia. Discussion Brief. Stockholm Environment Institute, Stockholm, Sweden (2017).

[117]C. Strambo, and A. J. Puertas Velasco, op cit.

participation outside the conventional forums is an imperative source of democratic forethought despite its short-term outcomes.[118] Popular participation can yield new narratives that change policy direction or generate new information that alters the political discourse or agenda.[119] Created spaces also provide opportunities for members of the public to clarify their thoughts; develop well structured arguments and gain confidence prior to partaking in an invited space.[120]

5. Impediments to Advancing Environmental Democracy in Nigeria

Some challenges impede the prospect to expanding public participation opportunities.[121] Engaging meaningful participation and discourse within both invited and created spaces needs time and fund. However, our expanded scope of public participation also draws attention to the concrete practice of participation in its broader socio-political context. This drives us to examine in details the more intractable obstacles that impact who speaks and who is heard.[122] Any participation process cannot be detached from its social context, and participation is biased toward those with more privilege and more resources.[123] Consequent upon this, expanding public participation in decision-making could produce policies that inadequately reflect the needs and demands of impacted communities and marginalized groups, such as women.[124] In fact, apart from overt attempts to advance justice, public participation processes is capable of recreating and deepening existing inequalities in unplanned ways.[125] Open assemblies or public hearings, for instance, may seem like the most unbiased design since they are open to everyone. However, where efforts are not channeled towards engaging more disenfranchised portions of the public, such formats would end up recruiting those who are already politically active.[126] Therefore, the design of participation processes has to be specifically targeted at tackling social injustice for it not to reproduce the status quo.[127] The foremost role played by experts in environmental decision-making could amplify the negative impact of social and political norms on public participation. Technocratic decision-making could impede or exclude the public and the prioritisation of the role of business and special interests.[128] However, injecting the public in a meaningful way into highly technical decisions is not as simple as it sounds. Limited information or overly technical information can be huge stumbling blocks to meaningful public engagement.[129] Lack of understanding and transparency on how participation influences decision-making pose another challenge. Attempts to expand public participation often boomerang and become counter-productive in form of distrust or "participation fatigue". Creating new opportunities for public participation inevitably increases the public's expectation of meaningful influence.[130] However, as much as certain mechanisms may model direct democracy, public participation is not a replacement for representative democracy. It is also extremely difficult to institutionalize or standardize how decision-makers evaluate and apply public input. Environmental impact assessments are an excellent example. While there are extremely specific procedural requirements for soliciting and responding to public comments, the agency or permitting authority typically determines the significance of that input[131] In short, translating the public participation ideal into practice is challenging. There is an inherent tendency for participation mechanisms to recreate existing inequalities. There is no universal best practice that applies to all situations. Consequently, policy-makers must pay careful attention to the design of participation processes to ensure that participation is as equitable and inclusive as possible, taking into account the broader social context.[132]

6. Conclusion and Recommendations

We have in this paper, explored the nuances of democracy in sustainable protection and development of the environment. This paper hinted that environmental democracy entails throwing open the door of participation in environmental decisions and initiatives to the general public. We have taken the position that democratic principles and practices ought to pervade and dominate environmental decisions. It was pointed out that government, especially in developing countries; do not imbibe democracy in environmental issues by creating participatory spaces for the public. They also stifle the public from inviting such spaces and leveraging on same for purposes of participating in environmental debates and contributions. Other factors impeding public participation include illiteracy and communication gap, apathy on the part of the public on environmental issues, non publication of environmental policies and initiatives to the public, nonchalant attitude towards the environment by governments, dearth of experts in particular area of the environment, politicisation of environmental issues, monetary issues like non or lack of budgetary allocations to environmental protection and sustainability, etc. In view of the above therefore, we recommend that developing countries should buckle up to face the challenges of environmental protection by making adequate budgetary allocations; imbibe the tenets of environmental democracy by involving the public in initiating and enforcement of environmental policies and standards; increasing environmental education and public awareness in environmental issues, enhancing unbridled access to court against the restrictive regime of *locus standi* where environmental litigation forms the claim; encourage the willing public to make inputs that would imperatively shape environmental policies and enforcement of standards, and inculcating the principles of environmental democracy in national policy on environment cum municipal environmental legislations for ease of reference and enforcement.

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[118]P. Wehling, 'From Invited to Uninvited Participation (and back?): Rethinking Civil Society Engagement in Technology Assessment and Development' *Poiesis Prax* Vol. 9 (2012) pp. 43–60.

[119]J. S. Dryzek, *op cit*.

[120]A. Cornwall, op cit.

[121]J. Kasymova, and T. S. Gaynor, op cit.

[122]N. Kersting, op cit.

[123]J. Newig, op cit.

[124]B. Agarwal, Editorial: 'Re-sounding the Alert - Gender, Resources and Community Action.' *World Development*, 25(9), (1997) pp. 1373–1380.

[125]*Ibid*

[126]G. Smith (2014), op cit.

[127]A. Fung (2015), op cit.

[128]A. Fung (2006), op cit; See generally, N. Carter, *The Politics of the Environment: Ideas, Activism, Policy* (Cambridge: Cambridge University Press, 2001)

[129]A. Diduck, and A. J. Sinclair, 'Public Involvement in Environmental Assessment: The Case of the Nonparticipant.' *Environmental Management*, 29(4), (2002) pp. 578–588.

[130]F. H. J. M. Coenen, *op cit*.

[131]B. Richardson, and J. Razzaque, *op cit*.

[132]T. Dietz, and P. C. Stern, *op cit*.