PUBLIC INTEREST LITIGATION AS A CATALYST FOR SUSTAINABLE DEVELOPMENT IN NIGERIA

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Abstract: Nigeria is a country endowed with a lot of mineral resources and has about 168.8 million people in terms of its population. Unfortunately the estimated life expectancy is 51 years; the country's GDP is about $262.6 billion while the per capital income is $1,600.

Corruption permeates virtually every sector of the economy, basic necessities of life which promotes good living standards are lacking while government operates as if they are not accountable to its citizens. The enforcement, protection, development and enhancement of public interest, previously was the exclusive preserve of government.

However, the emergence of public interest litigation has changed this position. Private individuals can now file actions towards remedying perceived public wrongs. This development has led to reduction of corrupt tendencies, while government and its agencies are now more responsive and alive to their responsibilities.

It is in the light of the above that this paper sets out to examine the prospects and challenges of public interest litigation as a catalyst for sustainable development in Nigeria. The philosophical and theoretical basis for its formulation and how it has assisted in the recognition and guarantee of some rights and duties which were hitherto initially not justiceable along with its prospects and challenges will also be discussed. Possible solutions to these challenges will also be proffered. The concluding part will discuss the positive influence and contributions of public interest litigation to Nigerian jurisprudence.

Keywords: Interest, Litigation, Nigeria, Public, Sustainable.

INTRODUCTION

This paper proposes to examine the role of public interest litigation as a catalyst for sustainable development in Nigeria. Life they say is good, and this perhaps is obviously so, since there is only one life to live.[1] However, living in an environment where human rights abuses reign supreme, executive lawlessness is the order of the day and civilised conduct, non- existent, then a return to Hobbesian state of nature becomes inevitable; where might is not only right, but life itself is nasty, brutish and short.[2] Life in Hobbesian state of nature is characterised by, but not limited to non-existent or shortage of essential infrastructures like electricity, adequate pipe borne water, efficient heath care delivery system, good road net work and affordable transportation system along with a host of other facilities without which the quality and standard of

[1]. This assertion is without prejudice to the adherents of life after death.

[2]. Thomas Hobbes of Malnesbury (5 April 1588 – 4 December 1679), was an English philosopher, best known for his work on political philosophy. His 1651 book Leviathan established the foundation for most of Western philosophy from the perspectives of social contract theory. Hobbes was a champion of absolutism for the sovereign, but he also developed some of the fundamentals of European liberal thoughts, the right of the individual, the natural equality of all men, the artificial character of the political order (which led to the later distinction between civil society and the state); the view that all legitimate political power must be 'representative' and based on the consent of the people, and a liberal interpretation of law which leaves people free to do whatever the law does not explicitly forbid. He was one of the founders of modern political philosophy and political science. In addition to political philosophy, Hobbes also contributed to a diverse array of other fields, including history, geometry, the physics of gases, theology, ethics and general philosophy.
www.en.wikipedia.org/wiki/Thomas_Hobbes
accessed on 20th November 2013 at 15.18 pm.

life of citizens will be meaningless; especially when such a nation is endowed with the resources which government can harness for the good of the majority. But the refusal of the government to provide some of the life enhancing amenities being informed essentially by crass mismanagement, great insensitivity, immense greed and lack of accountability has resulted in despair for the vast majority who have not only lost hope of a better tomorrow, but who have also foreclosed any possibility of an improvement in their lot. Under such circumstances, the importance of instituting public interest litigation as medium to either compel or enforce government to ensure the provisions of these facilities and embark on policies which will stimulate economic development in this regard becomes imperative. This is because until very recently the protection and enforcement of public wrongs was the exclusive preserve of the Attorney General of the Federation or that of the state.[3] As a result of this position, individuals or marginalised groups had restricted access to courts on issues concerning violation or infringement of their rights concerning public wrongs. This position of the law was as a result of common law principles, a relic of the country's colonial history,[4] which till date is still applicable within our laws. However with the advent of public interest litigation, the position has changed through the activities of individuals and human rights groups who employ this forum for the protection of public rights. It is in the light of this recent development that this work sets out to examine the concept of public interest law litigation as a catalyst for sustainable development in Nigeria. The paper will be divided into five segments. The first segment will be devoted to conceptual considerations of some of the major terms to be used in this work and the theoretical basis for public interest litigation. The second segment will examine state of Nigerian economy, its infrastructural development in relation to the country's economic resources; the third segment will focus on the *locus standi* principle, its effect prior to and subsequent to when efforts were made to relax its stringent conditions in the area of public interest litigation , the benefits, prospects and challenges of public interest litigation shall be the focus of the 4th segment, while the 5th segment will highlight suggested solutions to these challenges and a brief conclusion.

1.00. CONCEPTUAL CONSIDERATIONS

The purpose of attempting a definition of some of the terms to be used in any field of discourse cannot be over emphasised. The major reasons for such an exercise are the following: linguistic theory, theory of essentialism and finally to enable us put the subject matter under consideration in context in view of the nature of words; so that we may not dissipate energy by venturing to veer into issues or areas alien to our study. Furthermore, clarification of some of the salient terms will also assist our understanding of the subject under discussion.[5]

1.01. Emergence, Meaning and Scope of Public Law Litigation.

The phrase public law litigation owes its coinage to Professor Hayes Abraham of the Harvard Law School, and it refers to the practice of lawyers in the United States seeking to influence social changes through judicial mechanisms[6]. However, commentators have traced its emergence to the *celebrated campaign which accompanied* the case of *Brown v Board of Education.*[7] This was a case in which the court's decision became a law and policy which gave meaning to the American Constitution. In this case, the Warren Court declared that the segregation of children in public schools solely on the ground of races was a violation of equal educational opportunities clause of the country's constitution. The court in its decision held as follows " *In the field of public education, the doctrine of separate but equal has no place. Separate educational facilities are inherently unequal"*

The significance of this decision was that it brought to limelight the importance of public law litigation as a medium of protecting, liberating, and transforming the interest of marginalised groups.

Dr. Rajeev Dhavan[8], at a conference in Britain in 1984 described public interest litigation as *a culture-*

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[3]. Expect such power is delegated to an appropriate officer or agency.

[4] See A.Obilade, *The Nigerian Legal System,* London, Sweet & Maxwell (1974) p.4

[5] See Dias the following:- the case of *Seaford Estate v Asher* [1949] 2,K,B 481, *Mutual Life Citizens' Assurance company v Evatt* [1971] AC 793 AT 813.

[6]See Fuller, The Forms and Limits of Adjudication, 92 Harv. L. Rev 353 (1978)

[7]. 347 U.S. 483 (1954)

[8]. Rajeev Dhavan (born ca. 1947), is an Indian lawyer, an advocate of the Supreme Court of India, a human rights activist and a Commissioner of the International Commission of Jurists. He is the author

specific phenomenon which was developed in America and confidently exported to the rest of the world"[9]

1.02. Definitions

Even though various attempts have been made to define the term public interest litigation from different viewpoints, yet, till date there is no universally accepted definition of the term. This however is not strange in that the various definitions proffered have been influenced by the social and political background of the persons and environment of where the definition originated. This was why Professors Sarat and Scheingold in their work observed that *providing a single cross-culturally valid definition of the concept is impossible."* In view of the above observation, attempts will be made to briefly state some out of the various meanings ascribed to the term public interest litigation.

Black's Law Dictionary, define public interest as...*the general welfare of the public that warrants recognition and protection. (2) Something in which the public as a whole has a stake; especially an interest that justifies governmental regulation;* [10]while litigation is defined, as[11] *the process of carrying on a law suit*. Thus from the above, it can be inferred that the juxtaposed term *public interest litigation* can then be defined as a law suit initiated to protect the general welfare of the public which justifies governmental protection. Professor Clark Cunningham describes public interest litigation in India *as a phoenix: a whole new creature arising out of the ashes of an old order.*[12] Public interest litigation has also been defined as:

Cases which raise issues, beyond any personal interest of the parties in the matter , affecting identifiable sectors of the public or vulnerable groups; seeking to clarify or challenge important questions of law; involving serious matters of public policy or general public concern and/or concerning systemic default or abuse by public body.[13]

In the words of Chu'ma Otteh Joseph, he described public interest litigation as

...using the law to empower people, to knockdown oppressive barriers to justice to reclaim and restore the right of social justice for the majority of the people. To attack oppression and denial that disenfranchise our people, and about winning back human dignity of the people, it is about caring for the rights of the other, besides one's self. It is about getting lawyers and judges committed to this struggle, and using the law more for the benefit of collective, not just individual or private interest.[14]

It is safe to infer that while the concept has not been statutorily defined in Nigeria, public interest litigation deals with actions instituted for the protection of marginalised groups in order to protect their interest. One common feature of public interest litigation is that the purpose of initiating such an action is to remedy public wrongs.

The rationale sought to be achieved by this form of action was succinctly put in an article written by Kayode Oladele as follows:…*usually there are no personal gains or private motives for initiating public interest litigation, hence as a social engineering the success of public interest litigation is not usually hinged on winning a particular action, but in bringing attention to the violation, sensitizing the public, helping to initiate law reform while also expanding old rights and creating new ones because the courts are forced to review and comment on laws and government policies and give appropriate contextual interpretations.*[15]

From the above and for the purposes of this work, public interest litigation is the practice of adopting

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or co-author of numerous books on the legal and human right topics, and is a regular columnist in the leading newspapers in India. www.en.wikipedia.org/wiki/Rajeev_Dhavan accessed on 20th November 2013 at 16.49pm.

[9]. Dhavan, *Whose Law? Whose Interest? , in PUBLIC INTEREST LAW* (Cooper & Dhavan eds. , 1986)

[10]. 7th Edn. Bryan A Garner.

[11]. This mechanism had been employed in a broad range of social issues comprising of, but not limited to the following:-contraception and abortion, employment and housing discrimination, environmental regulation and prison reformation.

[12] Cunningham, *Public Interest Litigation in Indian Supreme Court: A study in Light of American Experience*, 29 J. OF THE INDIAN L. INST. 495 (19870)

[13] See Mel Cousins: www.flac.ie/download/pdf/cousins_flac_061005.pdf. accessed on 20/11/2013 by 5.30am.

[14] This remark was made at a symposium organised by a non- governmental organisation by name Access to Justice on 7th August, 2009.

[15] See. http://www.nigeriavillagesquare.com/kayode-oladele/falana-vs-african-union-a-new-conundrum-in-access-to-justice.html. accessed on 21st November 2010.

the machinery of law for the protection and benefit of marginalised groups, while in terms of the scope of its application, it cut across every facet of human endeavour, ranging from but not limited to the following: infringement of human rights or violation of rights of marginalised groups, environmental degradation, failure and or neglect to provide and or maintain public infrastructures, employment and housing discrimination, environmental regulation, reform of prisons amongst a host of other areas where the interest of members of the public are adversely affected.

1.03 SUSTAINABLE DEVELOPMENT:

The term *sustainable development* is a nebulous concept, susceptible to varying meanings. The fact has been acknowledged that the term was used during the *Cocoyoc Declaration* on Environment,[16] and since then it has mostly been defined from an environmental point of view. An attempt will also be made to examine some of the meanings given to the term. It has been posited that it connote an integration of developmental and environmental or beneficial development. [17]

It has also been defined as *development that meets the needs of the present without compromising the ability of the future generations to meet their own needs. It contains two key concepts: (a) The concept of needs in particular the essential needs of the world's poor, to which overriding priority should be given and, (b) The idea of limitations imposed by the state of technology and social organisations on the environment's ability to meet the present and future needs.* [18]

Also, it is described *as a way of ensuring a strong, healthy, and just society. This means meeting the diverse needs of all people in existing and future communities, promoting personal wellbeing, social cohesion and inclusion, and creating equal opportunity.*[19]

It is however posited that the focus of sustainable development is not limited to environmental issues; but extends to issues bordering on human development capable of enhancing the quality and standard of living, without compromising the interest of the present and future generations. It focuses on meeting the diverse needs of all people in existing and future communities, promoting personal wellbeing, social cohesion and inclusion, and creating equal opportunity. It is about finding better ways of doing things, both for and the present.[20]

Sustainable development within the context of this work will address issues which will promote the welfare of human beings, enhance the quality of life and provide a platform for living a decent life for now and the nearest future.

2.0 THEORETICAL BASIS FOR PUBLIC INTEREST LITIGATION.

First and foremost, public law litigation is justified on the basis of the social contract theory. This theory is to the effect that there is an obligation on the part of the state to which individuals have surrendered their respective rights, to guarantee law and order, ensure smooth administration of justice, provide and maintain public works, which would be beneficial to the society. In the event that government renege on its obligation, the right to result to public interest litigation is necessary in order to remedy such wrong..[21]

Secondly, according to Ely, [22] public law litigation is a product of anti-positivist view which queries the inevitable legitimacy of majoritarian outcomes, since at times there are defects in the promulgation process, which in terms of its structure, *work to exclude or dilute the interest of affected groups*. Also it has been argued that legislation may be suspect in view of its in-adequate deliberative process *which ignores, distorts or mis-state the concern of outsider groups; judicial review solves a public choice problem by*

[16] This conference leading to the declaration was held in the early 1970s. For further redings, see Michael Redcliift, *Sustainable Development-Exploring the contradictions*, 32 (1987).

[17] Dr .P.S Jaswal and Dr. Nishtha Jaswal, *Enviromental Law* ,(Allahabad Law Agency , Law Publishers Faridabad(Haryana) p.93.

[18] See World Commission on Environment & Developmen (WCED) Our common Future. (Oxford University Press 1987, p.45)

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[20] See, http://www.sd-commission.org.uk/pages/what-is-sustainable-development.html, accessed 20th November 2010.

[21] See http://americanhistory.about.com/od/usconstitution/g/social_contract.htm. . , accessed 20th November 2010.This theory is traceable to the works of Plato,, but expanded by by Thomas Hobbes and Jean Jacques Rosseau. The theory posit that the stte exists to serve the will of the people and are the source of all polical powers.

[22] Democracy and Distrust (1980)

ensuring due regard for those who would otherwise, to borrow from Mancur Olson " suffer in silence".[23]
Thirdly public law litigation is justified on the ground that the fact and practice of law acknowledge a gap between *"law in the books" and law on ground*.[24] This is because after changes in an existing position had been addressed, these provisions may not be implemented either because of hostility evasion, or indifference. When this happens, the need for judicial intervention is inevitable.
Fourthly, public law litigation has been said to recognise *the expensive value of law and its constitutive relation to customs and discourse of civil society*. This is in line with what sociologists call new social movements in which participants contest the terms "public meaning".[25] The act of litigation in this regard is to "*afford a judicial space in which those who lack formal access to power became visible and fund expression.*[26] The above summarises the rationale and justification for public interest litigation.

2.1 PUBLIC INTEREST LITIGATION TYPOLOGY

Basically, two types of public interest litigation have been identified, these are test cases and structural reform suits.
(a) Test Cases.
This type of cases are instituted for the prime purpose of challenging the legality of existing laws or attempts to give new meanings to such laws. Decisions given in test cases becomes precedent in other related cases and also shape and or influence government policies.[27]

(b) Structural Reform Suit.
This type of suit challenges deficiencies in the enforcement of existing laws, and seek to regulate the defendant's future conduct through judicial decisions which *spell out in highly specific terms constitutional or statutory requirements* rights accruing to such defendants.[28]
One common feature of both actions is that both are declaratory in nature and such decisions impacts positively on other aspects of law.

3.00 NIGERIA AND ITS ECONOMY

The entity known as Nigeria is an amalgam of ancient kingdoms, city states, caliphates, empires which were merged together in the 20th century. The name was adopted in 1898 to designate the British protectorates on the river Niger. Originally, when the British imperialist and trade merchants got to the coast of the expanse of land known as Nigeria, there existed different geographical political kingdoms in the area. However in 1860, King Dosumu of Lagos ceded his territory to the British. The northern part of the country was administered as the Northern Protectorate and the Southern part as Southern Protectorate. In 1914 both protectorates were amalgamated to form a single entity called Nigeria.
The country is blessed with a variety of natural resources yet to be exploited.[29] Its economy between 1914 up to the 60's was driven by agriculture until 1970s when petroleum resources became the major driving force of the economy, thereby leading to a decline in agricultural activities.[30] Its oil reserve has been estimated to be about 36 billion barrels, natural gas reserves over 100 trillion cubic feet, while its current crude production is in the average of 1.6 million barrels per day;[31] while its GDP is 413.4 billion dollars.[32]

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[23] See Helen Hershkoff *Public Law Interest Litigation: Issues and Examples*: http://www.worldbank.org/?INTLAWJSTINST/Resources/publicinterestLITIGATION. .Accessed 20th November 2010 aound around 5.35pm.
[24] Upham, Ideology, Experience and the Rule of Law in Developing Societies – Text of a paper delivered by the author in Bangkok Thailand between May 12-14, 2000
[25] See McCann, Causl versus Constitutive Explanations (or, On the Difficulty of Being so Positive ...) 21L. & Social.Inquiry 457 (1996)
[26] See http://www.worldbank.org/?INTLAWJSTINST/Resources/publicinterestLITIGATION. Accessed Sunday November 11 2013, around 5.40p.m.
[27] Test cases will deter unlawful administrative practices, promote interpretation of law ,and also identify areas of injustices and assist in building pressures to remedy them
[28] See www.essex.ac.uk/armedcon/story_id/00696.pdf- accessed on Sunday Nov 11, 2013 around 6.00p.m
[29] Prominent amongst which are the following-: gypsum, kaoline and marble, precious metal.
[30] See www.nig.gov.ng/2012-10-29-11-05-46historty-of-nigeria Accessed on Sunday 2011, around 6.10p.m
[31] See www.nig.gov.ng/2012-10-29-11-05-46history of-nigeria Accessed on Sunday November11th 2013, around 6.30p.m
[32] See www.heritage.org/index/countryNigeria. Accessed on Sunday November 11th , 2013, around 7.00pm

Nigeria is the most populous country in Africa. It has the 6th largest population in the world according to available statistics, while its population in 2012 was in the neighbourhood of 166.2million.[33] The country is endowed with a lot of mineral resources which if properly harnessed and utilised would have positively enhanced the standard of living in all aspects of human endeavour. Despite the fact that the country is blessed with abundant economic and mineral resources, the standard and quality of living is low. Until very recently public funds end up in private hands, funds earmarked for the provision of infrastructures are embezzled, there was complete decay of infrastructural facilities, healthcare delivery services was in a comatose state, corruption permeates every strata of the economy, the running of government was shrewd with mystery, executive lawlessness and human rights abuses became the order of the day, while socio-economic rights were not justiciable. Private individuals find it difficult if not impossible to prosecute those who perpetrate these atrocities; reason being that such rights were vested in the Attorney General of the Federation or that of the State. However where an individual is able to establish his standing to commence an action; such actions are frustrated by government. This customarily is done by filling preliminary objections in form of joinder, non-joinder or mis-joinder of parties, jurisdiction and more importantly the principle of *locus standi* to challenge the competence of such actions.

The above is a description of the state of infrastructural development and standard of living in Nigeria.

It is also disturbing that the country's economy which is presently anchored on oil cannot compare favourably with that of developed nations as a result of mismanagement and economic sabotage. For instance, the Niger-Delta area from which the resources presently sustaining the country's economy are harnessed,[34] lack access to basic amenities of life. The United Nations Development Programme summarised the situation in the area as follows:

A prime example of a region and nation deeply affected by the resource cause the paradox that country which an abundance of natural resources specifically non-renewable (e.g mineral and fossils fuels) tends to have a negative effect on economic growth and development that countries with fewer national resources[35]

4.0 PUBLIC INTEREST LITIGATION AND CHALLENGES OF LOCUS STANDI

As earlier stated above, within the realms of public law litigation, an individual does not have a direct access to court. The only exception is when such a person can show to the satisfaction of the court that his private right had been interfered with and following such interference, he suffered special damage peculiar to himself.[36] The rationale for this position can briefly be summarised as follows:- Firstly, direct access will encourage professional litigants to flood the courts. Secondly it will unduly burden government financially and even slow down its activities and that of its agencies if members of the public are given access to court to seek judicial review of its actions, and finally only those who could show that the act complained of affected them over and above that of an ordinary member of the public ought to be granted access to courts.[37]

The concept of *locus standi* has been identified as one of the major impediments to the initiation of public interest actions which would have stimulated growth in the various areas of human endeavours. The concept has been defined by various writers, however its essence is to differentiate between a stranger and an aggrieved party. It has been defined as legal capacity to institute a proceeding.[38]

Defining the concept in relation to authority to issue prerogative writ and orders, it was defined as *a place to stand, or the right of a party to appear before and be heard by a tribunal especially in an application for prerogative writs and orders.*[39]

In the words of Oputa J.S.C (as he then was) he defined the concept in the following terms:

…the legal capacity to challenge the order or act etc. standing confers on an applicant the right to be

[33] See www.naangronline.com/section/heathgender/nigeria- accessed on Sunday Nov 11, 2013, around 7.20pm

[34] See www.stakeholdersdemocracy.org/context.hml accesed on Friday 10th November 2013./11/13 by5.30am

[35] See www.stakeholdersdemocracy.org/context.hml. accessed on Friday 10th November by 6.00am.

[36] See the case of *Gouriet v Union of Post Office Workers* (1978) A.C.435

[37] See the case of *Sierra Club V Hickell* 433 F 2d 24 (1970)

[38] Locus Standi and Judical Review, (Wildy& Sons Ltd, London) page 1

[39] Author of Osborne's Conscise Dictionary, London Sweet & Maxwell, (1983) 7th Ed. p209'

heard as distinct from the right to succeed in the action or proceeding for relief…[40]

The concept is deeply rooted and applicable within Nigerian jurisprudence. The application of this principle within Nigerian legal jurisprudence is evidenced by the decision the case of *Senator Abraham Adesanya v President & Ors.*[41] In this case, the applicant challenged the appointment of Justice Ovie Whiskey as the Chairman of the Federal Electoral Commission. Being a member of Senate, he contributed to the debate on the floor of the house concerning the appointment of Justice Ovie Whiskey before it was ratified. Though he opposed the appointment which was confirmed by the house, having lost on this issue he filed this action. The Lagos High Court declared the appointment as unconstitutional on the ground that Justice Ovie Whiskey was not competent to be so elected under the Constitution. The President and Justice Ovie Whiskey appealed against the decision to the Court of Appeal. The issue of locus standi was raised and canvassed in that court. It was held that the applicant had no right to have challenged the appointment. Senator Abraham then appealed to the Supreme Court which also confirmed the Appeal Court's decision on the ground that having participated on the deliberations on the floor of the house of Senate on the suitability or otherwise of Justice Ovie Whiskey's appointment, he had no *locus standi* to have instituted the action. The question which one may ask following the Supreme Court's decision is would the position have been different if it was an ordinary citizen that had challenged the appointment of Justice Ovie Whiskey, bearing in mind that a litigant based on the standing principle must establish that he has a cause of action vested in him and also establish the rights and obligations or his interest which have been violated.[42]

The answer that readily comes to mind on the above question is that such an individual will still have been denied standing. This conclusion is buttressed by the decision of the Supreme Court in the case of *Chief Dr Irene Thomas & 50 ors v The Most Reverned Timothy Omotayo Olufosoye.*[43] In this case, the appointment of Reverend Abiodun Olufosoye as the new Bishop of Lagos was challenged by the Plaintiffs who were communicants of Anglican Communion with the Lagos Diocese. The Plaintiffs did not in their claim state what personal interest they stand to gain or lose in the appointment of the 1st defendant as the new Bishop. Rather they aver positively in their claim that they were not interested in whoever was appointed as Bishop. The defence objected to the suit and raised the issue of *locus standi*. The objection was upheld by the trial court, while subsequent appeals to the Court of Appeal and Supreme courts were dismissed. One of the issues canvassed at the Supreme Court on this case was whether the plaintiffs raised in their claim any issue which affected their civil rights and obligations. Oputa JSC remarked as follows on this issue: *The broad and general principle of law is contained in the old Latin maxim-ubi jus ibi remedium. Jus here signifies the legal authority to do or demand something and Remedium here means the right of action, or theme as given by law for the recovery or the declaration or assertion of that right. In order words, the maxim presupposes that wherever the law gives a right, it also give a remedy.Conversely wherever a plaintiff is claiming a remedy that remedy must be founded on a legal right. Applying the above broad definition of the maxim, the first hurdle for the plaintiff to clear is to let their statement of claim reflect their legal authority to demand the declaration sought and their right which is likely to be injured and for the protection of which they need the remedy of an injunction.*

Over time complaints began to mount over the injustices caused by the *locus standi* principle particularly when it concerns public wrongs. Prominent among those who led the efforts which eventually paid off towards liberalising the stringent requirement of the *locus standi* principle was one of the country's foremost constitutional lawyer, the late Chief Gani Fawehinmi. Attempt to whittle down or weaken the effect of the principle particularly in the area of public interest litigation was first acknowledged in the case of *Senator Abraham Adesanya v The President of the Federal Republic of Nigeria*,[44] where the court posited that there was need to liberalise the stringent posture or conditions of the doctrine. Unfortunately the court did not adopt the liberal approach acknowledged in the case. On this issue, permit me to quote extensively from the report in order to appreciate the opinion of the court on this

[40] *A.G. of Kaduna State V Azzan* (1985(2 NWLR (pt 483 at 497

[41] Supra

[42] See the cases of : *Thomas v Olufosoye* (1986) 1 NWLR (Pt 18)669 at 686 and *Momoh V Olotu* (1970) NLR 117

[43] *Supra*.

[44] (1981) All NLR 1.

issue. Fatayi-Williams C. J. N posed a question to himself, when he posited as follows:
If in a developing country like Nigeria with a written Constitution, a legislative enactment appears to be ultra vires the Constitution or an act infringes any of its provisions dealing with Fundamental Rights, who has locus standi to challenge its constitutionality? Does (or should) any member of the public have the right to sue? Or should locus standi be confined to persons whose vested legal rights are directly interfered with by the measure, or to persons whose interests are liable to be specially affected by its operation, or to an Attorney-General who is a functionary of the Executive Branch? Experience has shown that different legal systems have offered diverse answers, sometimes experimental answers to these questions.

During the course of his judgement, he referred to Dr.Thio who was described once by a legal practitioner *as a judicial anarchist and then said:*[45] *With these observations in mind, I take significant cognisance of the fact that Nigeria is a developing country with a multi-ethnic society and a written Federal Constitution, where rumour-mongering is the pastime of the market places and the construction sites. To deny any member of such a society who is aware or believes, or is led to believe, that there has been an infraction of any of the provisions of our Constitution, or that any law passed by any of our Legislative Houses, whether Federal or State, is unconstitutional, excuse of lack of sufficient interest is to provide a ready recipe for organised disenchantment with the judicial process.*

He further added: *I am also strongly of the view that when interpreting the provisions of our 1979 Constitution, not only should the courts look at the Constitution as a whole, they should also construe its provisions in such a way as to justify the hopes and aspirations of those who have made the strenuous effort to provide us with a Constitution for the purpose of promoting the good government and welfare of all persons in our country on the principles of Freedom, Equality and Justice, and for the purpose of consolidating the unity of our people.*

In my view, any person, whether he is a citizen of Nigeria or not, who is resident in Nigeria or who is subject to the laws in force in Nigeria, has an obligation to see to it that he is governed Constitution. It is his civil right to see that this is so. This is because any law that is inconsistent with the provisions of that Constitution is, to the extent of that inconsistency, null and void by virtue of the provisions of section 1 and 4 to which I have referred earlier.

However, except in the extreme or obvious case of abuse of process, how then can one conceive of a judicial process where access to the courts, by persons with grievances, is based solely on the courts' own value judgment in a multi-ethnic country where more than two hundred languages are spoken? I would rather err on the side of access than on that of restriction.
Notwithstanding the views expressed the learned Chief Justice, who would rather err on the side of access, denied access.

While Bello J. S. C, in his own contribution opined as follows ...*In view of the complexity of the provisions of our Constitution, its peculiarities of details, its subjection of the provisions of some of its sections to the provisions of other sections and the necessity for cross-reference to discover the scope of some of the sections, I prefer to be on the side of caution and consequently, in my view the question of standing ought to be decided on the very narrow compass it has been canvassed before us.* [46]

The court in the above case refused to adopt the liberal view acknowledged, but relied on the position of the common law principle on this doctrine. However in a criminal matter the stringent condition associated with the doctrine was relaxed; this was in the case of *Fawehinmi v Akilu.*[47] In this case a client of the applicant Mr Dele Giwa, a journalist was killed at his residence at Ikeja in Lagos State by a parcel bomb. Consequently, the Applicant/ Appellant, submitted to the Director of Public Prosecution (DPP) Lagos, a 39 page document containing all details of investigation he conducted together with information in which he accused two army officers, Col. Halilu Akilu and Lt. Col. A. K. Togun, of the murder of Dele Giwa. Pursuant to Section 342 of the Criminal Procedure Law of Lagos State, he requested the Director of Public Prosecution to exercise his discretion whether or not he would prosecute the above persons which he alleged were responsible for his murder, and in the event that declined to prosecute, he should then endorse a certificate to that effect on the information submitted to enable him prosecute them in his capacity as a

[45] The legal practitioner was late Chief Fani-Kayode in a discussion with Eso J.S.C. as he then was.

[46] See pp.148-162

[47] (1987) 4 N WLR (PT 67) 797

private prosecutor. The applicant subsequently met with the Director of Public Prosecution, to know the outcome of his application. The D.P.P informed him that he could not come to a decision whether or not to prosecute the said officers until he received a report of police Investigation.

The Appellant thereafter filed an application at the High Court of Lagos for leave to apply for an order of Mandamus to compel the Respondent to take a decision on whether to prosecute the two officers and if he decides not to, he should endorse the information for private prosecution.

The Learned Chief Judge of Lagos State who heard the matter refused the application for leave which he dismissed on the following grounds: that the DPP had not refused to do his duty under Section 342 of the Criminal Procedure Law and he would not be forced to do so upon the limited materials before him.
His appeal to the Court of Appeal was also dismissed and he finally appealed to the Supreme Court, which court granted his application for leave. The court held inter-alia stated as follows; (a) The Appellant, as a person, a Nigerian, a friend and a Legal Adviser to Dele Giwa has a personal right under the Criminal Procedure Law to see that a crime is not committed and if committed, to lay a criminal charge for the offence against any one committing the offence in his view whom he reasonably suspects to have committed the offence (b) The Criminal Code and the Criminal Procedure Law do not by their provisions confine complainant in respect of the offence of murder to a particular person or class of persons. Any persons who has sufficient information in his possession to establish the crime can identify an accused person and is entitled to lay the charge.[48]

The court however commented extensively on the scope of *locus standi principle* in the area of criminal law as follows; *Criminal Law is addressed to all classes of society as the rules that they are bound to obey on pain of punishment, to ensure order in the society and maintain the peaceful existence of society. The rules are promulgated by the representative of society who form the government or the Legislative arm of government for the benefit of the society and the power to arrest and prosecute any person who braches the rule is also conferred on any person in the society in addition to the Attorney-General and other law officers for the benefit of the society. The peace of the society is the responsibility of all persons in the country and as far as protection against crime is concerned, every person in the society is each other's keeper. Since we are all brothers in the society, we are our brother's keeper. If we pause a little and cast our minds to the happenings in the world, the rationale for this rule will become apparent.*
There have been cases where brother assaults or kills brother, cases where a father assaults or kills his son. Where a son kills his father, where a husband kills his wife and where a wife kills her husband. If consanguinity or blood relationship is to be only qualification for Locus Standi, then crimes such as are listed above will go unpunished, may become order of the day and destabilise society. Can it be said that Dele Giwa's death is not as much a sad and bitter loss to his friend, lawyer and confidant as it is to his family? The answer to the first question, therefore in my view, is in the affirmative that is that the appellant has locus standi"

This case firmly entrenched within the annals of our legal jurisprudence the liberal approach interpretation of the doctrine. This decision is justified on the grounds of public policy.
The need to restrict the strictness of this doctrine under public law was stated by Professor H. W. R Wade[49] as follows *in private law, that principle can be applied with some strictness. But in public law, it is inadequate for it ignores the dimension of public interest*

The current practice in most jurisdiction is towards liberalising the principle. For instance in the case of R.V. Foreign Secretary, Ex parte World Movement Limited,[50] a pressure group was held to have the standing to challenge the decision of the Secretary of State for Foreign and Common Wealth Affairs to grant overseas aid for the purpose of constructing a hydro electric power station in Malaysia.

Also in Ghana, any citizen of Ghana can bring an action for a declaration of an act perceived to be unconstitutional.[51]
Since the liberalisation of this principle, public law litigation has been used to promote sustainable development in all aspects of human endeavour, particularly ensuring accountability on the part of government, promote good governance and protection of the environment in Nigeria, though its full potentials are yet to be explored.

[48] *Supra*

[49] *Administrative Law*,6th ed.p,688.
[50] 1 WLR 386 (1995)
[51] See the case of Tuffuor v A.G (1980) (1980) GL.R. 637.

An attempt will now be made to examine its contributions, prospects and challenges in Nigeria.

4.1 PUBLIC INTEREST LITIGATION AS CATALYST FOR SUSTAINABLE DEVELOPMENT

The practice of public interest litigation as earlier observed emerged gradually and cautiously in Nigeria, its seeds was sown and watered by human rights activists, pioneered by the late Chief Gani Fawehinmi who was a foremost public litigator in Nigeria and has been so described. Also the country is blessed with a visionary and courageous judiciary which adopted an activist approach. He filed series of cases against the government in this area to check government excesses, covering diverse areas of human endeavour in the country.[52]

Public interest litigation has been used as a medium to promote sustainable development in Nigeria and more can still be achieved in this direction, since law is an instrument of social engineering.[53] Till date law is used to redress wrongs and balance conflicting interests within the society. If not for this concept, the enforcement and promotion of socio-economic rights which are not closely linked to fundamental human rights would have remained an illusion. Public interest has influenced and also contributed in no small measure to good governance, accountability on the part of government, reduction in human right abuses amongst a host of other areas of human endeavour on which it has impacted positively. Every member of the public now has un-inhibited access to court in the event of violations of rights concerning public interest.

An examination of how public interest litigation has impacted positively on the quality and standard of living thereby justifying the assertion that it is a medium which serves as catalyst for sustainable development will now be examined.

(a) Enhanced Justiciability of Socio-Economic Rights:-

Prior to the advent of public interest litigation, the provisions of Chapter 11 which sets out the Fundamental Objectives and Directives Principles of State Policy were not justiciable,[54]in that Section 6(6) (c) makes them impotent .The section provides inter alia *The judicial powers vested in accordance with the foregoing provisions of this sections shall not except as otherwise provided by this constitution, extend to any issue or question as to whether any act or omission by any authority or person or as to whether any law or any judicial division is in conformity with the fundamental objectives and directive principles of state policy set out in chapter 2 of this Constitution.*

In view of the above provisions, attempts to litigate on socio-economic rights as contained in the provisions of Chap.11 of the 1999 Constitution met with stiff opposition. A writer once referred to these provisions as *exhortatory declarations and political manifestos*[55] since its provisions are not justiciable.

The provision of this section came up for consideration in the case of *Archbishop Olubunmi Okogie v The Lagos State,* [56] where the Court of Appeal had cause to interpret a similar provision in the Country's 1979 Constitution. The court held as follows: *The fundamental objectives identify the ultimate objectives of the Nation and the Directive Principles lay down the policies which are expected to be pursued in the efforts of the Nation to realise the national ideals. While Section 13 of the constitution makes it a duty and responsibility of the judiciary among other organs of government to conform to and apply the provision of chap ll, section 6 (6) (c) of the same constitution makes it clear that no court has jurisdiction to pronounce any decision as to whether any organ of government has acted or is acting in conformity which the fundamental Objective and Directive Principles of State Policy. It is clear therefore that section 13 has not made chapter II of the constitution justiciable*.

From the above position expressed by the court the question can be asked, what if government failed to formulate any policy towards achieving these objectives what will happen? Can public interest litigation be instituted to compel government to formulate policies towards achieving those objectives .However over time, public interest litigation was used to make incursions towards its justiciability. The

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[52] http://writehouse.biz/?p=2802 Accessed on .10th November around 10.12p.m

[53] The social engineering theory credited to Roscoe Pound is a multidisciplinary approach to the study of law which recognised law as a dynamic system that is influenced by social conditions and which affects the at large.

[54] For its provisions, see Chapter 11, 1999 Constitution of the Federal Republic of Nigeria.

[55] See Taiwo Kupolati *Verses for Legal Revolution* 1st ed. Chap.2 (Renaissance Law Publishers Limited Lagos Nigeria)

[56] (1981) NCLR 218.

spate of judicial authorities on the provisions of Chap II now point to the fact that that as long these obligations are closely linked with the provisions of Chapter IV of the Constitution which deals with Fundamental Human Rights such should be justiciable.

Thus in the case of *A.G. of the Federation v A. G. Ondo State*,[57] a suit which was initiated to question the power of the National Assembly in setting up an anti graft agency known as Independent Corrupt Practices Commission, the provisions of section 15 (5) of Chap II, of the 1999 Constitution came up for consideration. The section provides as follows: *The State shall abolish all corrupt practices and abuse of power*

Towards the resolution of the issues canvassed in this case, the court considered items 60(a), 67 and 68 of the Exclusive legislature list which equally provides inter alia "60 *The establishment and regulation of authorities for the Federation or any part thereof-* (a) *to promote and enforce the observance of the Fundamental Objectives and*
Directive Principle contained in this Constitution;
67- Any other matter with respect of which the National Assembly has power to make laws in accordance with the provisions of this Constitution.
68 - Any other matter incidental or supplementary to any matter elsewhere mentioned in this list"

The Supreme Court held that the National Assembly has exclusive power to legislate on issues bothering on the state's power to abolish all corrupt practices and abuse of power which falls under the Fundamental Objectives and Directive Principles of State Policy.

This decision brightens the hope that the reality of transforming Nigeria into a state of achievable value in line with the provision of socio-economic rights as contained in Chap II can be realised through private interest litigation.

Virtually all the provisions of sections 13-24 contained in Chap.11 of the 1999 Constitution are interconnected with the provisions of Chap.1v dealing with Fundamental Human Rights. [58]

A society devoid of corruption and other social vices definitely is an environment where the interest of the present and future cannot be compromised.

The current judicial trend affirming the justiciability of the provisions of Chap.11, is similar with the view expressed by Hon. Justice P. N. Bhaqwatt, former Chief Justice of India at an inaugural address when he observed as follows

"*These three categories of human rights depend fundamentally on the right of life and personal liberty which is a core human right. The right of life is not confined merely to physical existence, but it includes also the right to live with basic human dignity with the basic necessities of life such as food, health, education shelter etc. these human rights fall within the category of social and economic rights and they can be realised only by affirmative action on the part of the state and if the state fails to carry out its constitutional or legal obligations in enforcement of these human rights, it may be compelled to do so by an activist judiciary. We in India have done so, by compelling affirmative state action in cases where the state was under a constitutional or legal obligation to do so.*[59]

The above position can be contrasted with that of South Africa; the country realising the limitation of using judicial action to ensure the enforcement of Directive Principles of State Policy in its Constitution expressly provided for its justiciability and this has been accorded judicial recognition.[60] *Government of the Republic of South Africa v Grootboon*.

(b) Protecting the Interest of Marginalised Groups.

Bearing in mind that one of the reasons for public interest litigation is to protect the interest of marginalised and disadvantaged groups, particularly those who lacked the empowerment either financially or economically to take advantage of the judicial system; public interest litigation has assisted positively in this area. In the case of *Peter Nnemi v*

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[57] (2002) FWLR (pt 111) 1072.

[58] Chap 11 in summary provides as follows S.13 deals with fundamental obligation of the government; S.14 talks about government and the people, S.15 talks about political objectives ; S.16 deals with economic objectives ;S.17 deals with social objectives ;S.18 relates to educational objectives ; S.19 deals with foreign policy objectives ; S.20 deals with environment culture ; S.21 on directive on Nigeria Culture ; S. 22 – on obligation of the mass media; S. 23 nation ethics and finally S.24 provides for duties of citizen

[59] Being part of an inaugural address delivered at the Judicial colloquium in Bangalore, 24-26, February 1988 in Developing Human Right Juris A commonwealth Secretariat Publication 1988 p.xxii - xiii

[60] See the case of *Government of the Republic of South Africa v Grootboon.* [ ]

Attorney General of Lagos State,[61] the constitutionality of the prolonged incarceration in dehumanizing conditions of death rows prisoners and the right of prisoners to humane treatment was brought before the court. The Court of Appeal held that these categories of persons have enforceable rights as citizens and suggested that prolonged incarceration of convicted prisoners could constitute breach of their right to dignified and humane treatment.

(c) Enhanced Good Governance and Accountability

In the struggle for good governance and accountability, public interest litigation has impacted positively on this area. Prior to its emergence the act of governance was shrewd in secrecy, with little or no regard for accountability. However succeeding government realising and also conscious of the fact that public interest litigation will bring within public view the atrocities being perpetrated in governance, they are now cautious and accountable in their act of stewardship. Information relating to government activities can easily be accessed as a result of the promulgation of the Freedom of Information Bill.[62]

(d) Extending the development of Nigerian Legal Jurisprudence

Public interest litigation has expanded the horizon of our legal jurisprudence in that rights which were hitherto not known or recognised before are now given legal recognition while new rights are now emerging. In the case of I.G.P v A.N.P.P, the applicant challenged the unconstitutionality of the Public Order Act.[63]

(e) Stimulated economic growth and reduced un-employment:

Public interest litigation has also stimulated economic growth, based on the fact that government and its related agencies are now conscious of the publicity which public interest litigation will attract, consequently, they are more conscious and also alive to their responsibilities. This in turn has impacted on the economy by stimulating growth which will indirectly promote employment opportunities. A lot more can still be achieved in this area.

(f) Facilitated the promulgation of Freedom of Information Act

The promulgation of the Freedom of Information Act was partly due to the activities of those who were in the forefront of human rights crusade. These activists in their efforts to prosecute cases bothering on public interest at times file applications in court requesting or compelling public bodies to provide certain information necessary for the just determination of the cases instituted before the court for resolution. This practice eventually led to the promulgation of the Freedom of Information Act. The benefits derivable from this piece of legislation are enormous.[64] .

(g) Assisted in Identifying Areas for Reforms.

Public interest litigation draws attention to areas which require reforms thereby assisting government in its planning policies, particularly in the area of prison reforms, official corruption amongst a host of other areas.

(h) Protection of Human Rights.

The spate of human rights abuses of individuals and even interest of marginalised groups was highly rampant during the period of military dictatorship and successive democratic governments. However as a result of the activities of human rights activist, public interest litigation has played and continued to pay prominent role in reducing those acts.[65]

PROSPECTS AND CHALLENGES

Having highlighted some of the benefits of public interest litigation, it must equally be noted that the prospects of public interest litigation are yet to be fully explored in Nigeria. Presently we are yet to witness public interest litigation in areas which will promote the country's economic development. Public interest litigation can be used to change positively the face of the country's economy. For instance since

[61] 1996 (6) NWLR. Pt 452. p.42.

[62] This bill was passed to enable members of the public access government information. This will enable members of the public too have insight into reasons into government's policy decisions and also afford them the right to challenge them. Also it will reduce corruption and promote transparency in governance. For details of the provisions of the Act, see http://www.nigeria-law.org/Legislation/LFN/2011/Freedom%20Of%20Information%20Act.pdf Accessed on November 16th 2013, around 12.35a.m.

[63] [2007] 18 NWLR, PT 1066,457.

[64] http://www.nigeria-law.org/Legislation/LFN/2011/Freedom%20Of%20Information%20Act.pdf Accessed on November 16th 2013, around 12.35a.m.

[65] See the following cases: *Onuoha v State* (1998) 3 N.W.L.R. Pt 583, pg 531..*James Ajulu& Ors v A,G Lagos*, ID/76M/2008, *Bayo v Johnson vLufadeju* (2002) 8 NWLR pt 768, p.

sometimes on or around 1989, the balance of spending have shifted towards recurrent expenditure, this position need to be urgently addressed. There is need to invest in both physical and human development to promote economic growth and provide adequate infrastructures for the upcoming generation. Infrastructures like road, electricity, communication other infrastructures are needed for a functioning environment. For instance in the year 2010, the sum of 151 billion naira was voted for the Ministry of Mining and Power, however in 2013, it was only 91 billion naira.

According to a World Bank's report addressing Nigeria's infrastructure challenges, the view was expressed that it will require sustained expenditure of almost 14.2 billion dollars per year over the next decade or about 12 per cent of its GDP.[66] It is also an acknowledged fact that the Nigerian health sector is in shambles, many hospitals do not have the required equipments or pharmaceutical products; some do not have taps with running water and only about one in every four has access to safe water. While budgetary allocation to the various sectors of the economy can also be influenced through public interest litigation, since the beneficiaries are members of the public. For instance the country's total budget for this year is a total of 426.53 billion naira, out of which 2.38 was earmarked for recurrent expenditure, 1.62 trillion naira for capital vote, 597.7 billion naira for debt servicing, while 387.9 billion naira was for statutory transfers. Defence got the lion share of 348.91 billion naira; it must be noted that the country is not at war. Other sectors like health and water resources which will enhance the standard of living got 279.26 and 47.81 billion naira respectively.[67] Though 8.7 percent was allocated to education, which this was is a welcome decision, but only 60 billion was earmarked for capital development programme while substantial part was earmarked for recurrent expenditures.

Public interest litigation will play positive role in the areas mentioned above, in that it will call government attention to these lapses and efforts will be taken to remedy them.

Drawing inspirations from other jurisdictions like the United States and India public interest litigation have been used to correct a lot of anomalies prevalent within both societies.

For instance in the United States, public interest litigation has been used to improve the health care system, prison reforms and prisoners rights, provision of infrastructural materials for the disables, health, environment housing, land education and gender.[68] Also, in India public interest litigation have been used to impact life positively on the following areas: human rights, judiciary, environmental issues and public accountability.[69]

CHALLENGES

However challenges confronting public interest litigation in Nigeria are quite enormous some of which we shall also highlight below:

(a) Attitudinal posture of Government:-

Unlike the practice in other jurisdictions such as the United States of America where government and other NGO's assist in the funding public interest litigation, government in Nigeria apart from refusing to assist in the funding of such agencies, clamp on them using state security services to disrupt the activities of those in the vanguard of public interest litigation. Instances abound when law enforcement agencies especially the police either raid their offices or obstruct awareness campaign organized by NGO's to promote awareness on issues concerning public rights or those of marginalised groups. Those in the forefront used their own personal resources to prosecute action initiated by them. This has greatly impacted negatively on the number of actions initiated on this platform. A lot of marginalised groups and even individuals who are really aggrieved are not financially empowered to approach the courts on such issues bearing in mind that incidental fees payable are relatively high e.g. solicitors fees, filling fees, witnesses attendance costs and other related expenses. Also the Attorney General either that of the Federation or State who is the Chief law officer are reluctant in initiating public interest litigation.

(a) Manpower:

Presently the practice of *probono* legal services to assist oppressed and marginalised groups in Nigeria is just emerging. Very few lawyers and NGO's who embarked on this exercise do not have enough manpower to traverse the country's terrains and identified some other issues which needs to be

[66] http://www.nationmaster.com/country/ni-nigeria/eco-economy

[67] See www.myfinancialintediao.com.

[68] http://derechoycambiosocial.pbworks.com/f/Gloppen.rev.3%5B1%5D.pdf Accessed on November on 20th November 2013, at around 4.35pm.

[69] http://ngosindia.com/resources/pil_sc.php

redressed urgently. Further more public interest litigation does not form part of the legal curriculum in this country while the practice of clinical legal education is also just emerging.

(b) Literacy Level.
The level of literacy in 2010 for youth between the ages of 15-24 years was 50.41 per cent.[70] Greater percentage of literate adults apart from being ignorant of their rights are not conscious of when these rights are violated The practice of community legal education should be practised and encouraged.

(c) Procedural Difficulties.
In Nigeria virtually all the steps necessary for the initiation of a private action are also required for the filling of a public interest litigation whereas in other jurisdictions such practice have been relaxed. A post card may suffice to invoke the jurisdiction of the court, like the practice in the United States of America.[71] Also in India, procedural steps had been relaxed. In this jurisdiction the flexibility of public interest litigation have been described as *epistolatory jurisdiction*.

SOLUTIONS AND CONCLUSION

The problems identified above can be easily solved, but one thing is lacking, that is insincerity on the part of government. However the following suggestions are proffered to confront some of these challenges:-
(a) First and foremost the office of the solution general and that of the Attorney General of the Federation need to be separated, this will enable the A.G. to play the role of the defender of public interest and this can be complemented by private individuals and Non Government Organisation
(b) Secondly, there is urgent need for a review of our legal education curriculum to include fundamental principles of public interest litigation and clinical legal education. Our universities and law schools should be encouraged to involve its students on bro-bono activities concerning awareness on public interest litigation.
(c) The scope of the activities of public defender for instance as being currently practised in Lagos State of Nigeria, need to be reviewed. For now it is restricted to issues concerning personal individuals who alleged that they are being overreached mostly in regard to their private obligations. There is no documented report to our knowledge of a case where an action has been initiated either on behalf of a marginalised group or an oppressed individual.
(d) On the issue of funding, Nigeria as a nation is blessed with abundant economic resources and financial capacity to establish and fund agencies which will undertake the pursuit concerning violation of public interest. There is need to assist in funding the activities of genuine NGO's that engaged in protecting interest of the public while legal aid assistance should be extended to indigent persons or groups whose right has been violated.
(e) The procedure for the filing public interest litigation should be relaxed both in terms of assessment cost and form. The focus should be not on technicalities but the interest sought to be protected.
(f) There is also need for government to put in place official policy concerning public interest litigation and also work with NGO's involves in protection public interest. Furthermore since the protection and correction of public interest is not restricted to ligation alone, there is need to equally embark on law forms particular on areas concerning public interest.
From the contents of this paper, it can be seen that public law litigation a medium of systematic change has assisted in promoting and also improving the quality and standard of living, If properly by necessary implication, it will stimulate economic development in the country. In view of this, its full potentials are yet to be fully explored particularly on issues bordering on economic lapses, infrastructural development and environmental protections.
It is however necessary for government to formulate official policy in this directive and also assist in funding programmes of bodies engaged in public interest litigation.
While litigation is not the only remedy to effect change; its effect on the society is general as opposed to individual actions. Though the medium is susceptible to abuses, but steps can be taken to check such abuses.

[70] http://www.indexmundi.com/facts/nigeria/literacy-rate
[71] See the case of *Gideon v Wainright* (1963) 372 U.SS.335.