

JOURNAL OF
SUSTAINABLE DEVELOPMENT
LAW AND POLICY

AFE BABALOLA UNIVERSITY, ADO-EKITI, NIGERIA

VOLUME 6 ISSUE 1

FALL 2015

Print ISSN: 2467-8406

e-ISSN: 2467-8392

Journal of Sustainable Development Law and Policy
is a publication of the Institute for Oil, Gas, Energy,
Environment and Sustainable Development (OGEES)

Afe Babalola University, Ado Ekiti

8.5 Afe Babalola Way, Ado Ekiti

Ekiti State, Nigeria

E-mail: info@ogeesinstitute.edu.ng

Tel: +234 81 40000 988



Institute for Oil, Gas, Energy,
Environment and Sustainable
Development

All rights reserved. No part of this publication may be reproduced or transmitted in any form or means, or stored in any retrieval system of any nature without the prior written permission of the Institute for Oil, Gas, Energy, Environment and Sustainable Development, Afe Babalola University, Ado Ekiti, Nigeria. Applications for permission should be made to the Editor-in-Chief.

Printed in Nigeria.

Citation: Cite as (2015) 6 (1) Journal of Sustainable Development Law and Policy, Afe Babalola University, Nigeria

SUBSCRIPTION INFORMATION

Journal of Sustainable Development Law and Policy

Print ISSN 2467-8406

Volume 6 (1) 2015

The Journal of Sustainable Development Law and Policy is a peer-reviewed interdisciplinary journal published by the Institute for Oil, Gas, Energy, Environment and Sustainable Development, Afe Babalola University, Ado Ekiti, Nigeria. It is published in June and October by the Afe Babalola University Press, Nigeria.

The Journal promotes the dissemination of research results and scholarly papers by teaching and research scholars in Africa and across the world in broad areas of sustainable development law and policy. The thematic focus of the journal cover sustainable development law and policy, ranging from the economic, social and environmental dimensions. As such, papers that explore broad themes of sustainable development such environment, natural resources, green economy, international trade, banking, taxation, public policy, public private partnerships, alternative dispute resolution, human rights, peace, and conflict studies are normally given top consideration.

The Editorial Board of the Journal comprises international development scholars and experts from Italy, United Kingdom, Indonesia, Nigeria, Canada and the United States who provide leadership and lend their expertise to promote and enhance the scholarly relevance of the journal internationally.

The Journal of Sustainable Development Law and Policy is archived on Google Scholar and on African Journals Online, South Africa (<http://www.ajol.info/index.php/jsdlp/index>). The Journal is available online for download. Subscriptions are also welcome for hard copies at the standard rates. A discounted rate is provided for institutional subscriptions from universities, colleges and corporate organizations.

For more information or to order your copies, please contact: info@ogeesinstitute.edu.ng, Tel: +234 81 40000 988.

CORRESPONDENCE AND SUBMISSIONS

The Editorial Committee of *Journal of Sustainable Development Law and Policy (JSDLP)*, Afe Babalola University, Ado Ekiti welcomes the submission of unsolicited manuscripts. We welcome submissions that focus on any aspect of sustainable development law and policy ranging from the economic, social and environmental dimensions. Consequently, papers that explore broad themes of sustainable development such as agriculture, banking, e-commerce, environment, natural resources, public private partnerships, alternative dispute resolutions, human rights, peace, and conflict studies would be most welcome. We also welcome book reviews, case comments and public lectures.

Selected articles would be published in hard copy and also prominently displayed on the institutional website as a resource for scholars and practitioners worldwide.

Papers must be based on original research, conform to the usual standard of academic publishing, be fully referenced and presented in the standard format employed by the series. Papers will be evaluated based on their contemporary relevance, contribution to their selected fields of research, structure and analytical vigour. Please refer to the submission guide below.

SUBMISSION GUIDELINES

Length and Footnotes

- (1) Articles should be between 5000 and 8000 words and should advance legal scholarship and knowledge in a specific area of sustainable development law and policy.
- (2) Articles should include an abstract of approximately 250 words that is not an extract from the article itself.
- (3) Details of the author should be supplied as the first footnote, attached by an asterisk to the author's name.

Form of Submission

- (4) Articles must be submitted in MS Word format and sent as an email attachment to info@ogeesinstitute.edu.ng

- (5) Contributions will only be considered for publication if they comply with the style guide. All citations should be as footnotes and accord with the Oxford Guide for Legal Citation. A copy can be found at <http://www.law.ox.ac.uk/published/OSCOLA_4th_edn.pdf>
- (6) In terms of punctuation, where a quotation is made directly within the author's own sentences, only punctuation forming a part of it should fall within the quotation marks. For example, the author's text is "followed by a relevant quotation". All footnotes should follow the final punctuation mark of the sentence except where that mark is a colon or semi-colon.
- (7) **Authors should please make use of the following checklist prior to submission:**
- an abstract is included;
 - headings are consecutively numbered without automatic numbering;
 - headings are not underlined;
 - paragraphs are not separated by a full blank line, but only by an indent at the beginning of the new paragraph;
 - footnotes are consecutively numbered by way of automatic numbering;
 - footnotes are not separated by a full blank line;
 - footnotes appear at the end of each page of the manuscript and not at the end of the manuscript;
 - quotations have been checked for accuracy; and
 - references comply with the style requirements

Deadlines

We review articles on a rolling basis, for publication in any of our two editions published in a year. Authors should take note of the following deadlines:

Spring Edition: Only articles submitted on or before 12 noon on **31st March** would be considered for publication in the spring edition.

Fall Edition: Only articles submitted on or before 12 noon on **31st August** would be considered for publication in the Fall edition.

Deadlines are firm, articles submitted after the deadline may not be published. All papers should be submitted by email.

Evaluation

- (9) Contributions are submitted to at least two referees and the identities of the contributors and referees are kept confidential.
- (10) Further details about the Journal can be found at:
<<http://www.ogeesinstitute.edu.ng/index.php/ogees-journal>>
<<http://www.ogeesinstitute.edu.ng/index.php/research-publications>>

Questions and Enquiries

All enquiries or questions should be directed to:

The Editor-in-Chief
Journal of Sustainable Development Law and Policy
Afe Babalola University, Ado Ekiti, Nigeria
Email: info@ogeesinstitute.edu.ng

**DISTINGUISHED FELLOWS AND BOARD
OF DIRECTORS OF OGEES INSTITUTE**

PRESIDENT AND FOUNDER

Aare Afe Babalola, OFR, CON, LL.D, D.Litt, SAN

CHAIRMAN OF THE BOARD, OGEES INSTITUTE

Odein Ajumogobia, SAN

MEMBERS OF THE BOARD

Sir. Remi Omotoso

Dr. Emmanuel Ibe Kachikwu

Dr.Chinyere Ozumba

Dr.Olu Oluleye

Joseph Oluwatomisin

Elizabeth Preye Joseph-Obene

Tony Agbojo

DIRECTOR, OGEES INSTITUTE

Dr. Damilola S. Olawuyi

EDITORIAL BOARD

PROF. RANDALL S. ABATE
B.A., (Rochester), J.D. and M.S.E.L.
(Vermont)
Professor of Law and Director, Center for
International Law and Justice
Florida A&M University, United States

PROF. YINKA OMOROGBE
LL.B, LL.M (LSE)
Nabo Graham Douglas Distinguished
Professor of Law
Nigerian Institute of Advanced Legal
Studies

MARGARETTE MAY MACAULAY
LL.B (Holborn College, London)
Former Judge of the Inter American
Court of Human Rights

DR. EBENEZER I. ADODO
LLM, PhD (National University of
Singapore)
University of Surrey, United Kingdom

PROF. ADEMOLA POPOOLA
Professor of International Law
Obafemi Awolowo University, Ife
Nigeria

PROF. EZENDU ARIWA
FBCS, CITP, SMIEEE, FHEA, PhD
Associate Professor and Course Leader
for Business Information Technology
Management
London Metropolitan University, UK

BUKOLA FATUROTI
LL.M (LSE), LL.M (Robert Gordon),
Senior Lecturer and Course Leader for
MBA Oil and Gas Programmes
Robert Gordon University, Aberdeen
Scotland

PROF. KOLAWOLE O. ODEKU, PhD
School of Law, University of Limpopo
South Africa

PROF. SUMUDU ATAPATTU
LL.M (Cambridge), Ph.D.(Cambridge)
Associate Director, Global Legal Studies
Center Associate Professor, University
of Wisconsin Law School

PROF. MARIE-CLAIRE CORDONIER
SEGGER
Ph.D (Oxford), LL.M (Yale), LL.B
(McGill)
Senior Director, Center for International
Sustainable Development Law, Montreal
Canada

PROF. ALASTAIR R. LUCAS Q.C.
B.A., LL.B., (Alberta.), LL.M. (British
Columbia)
Professor and former Dean
Faculty of Law, University of Calgary,
Canada

PROF. MELDA KAMILARIADNO
LL.M (Washington), PhD (Washington)
Associate Professor, Faculty of Law,
University of Indonesia

PROF. FRÉDÉRIC MÉGRET
LL.B (London), LL.M (France), PhD
(Geneva)
Associate Professor of Law, Faculty of
Law
McGill University, Montreal, Canada

PROF. UCHE EWELUKWA
LL.M (Harvard), SJD (Harvard)
Professor of Law, University of Arkansas
School of Law, USA

PROF. LAWRENCE ATSEGBUA, SAN
LL.M (Alberta), LL.M (London)
Professor of Law, University of Benin

PROF. 'LANRE FAGBOHUN, PhD
Chikeldigbe Distinguished Professor of
Law, & Director of Studies, Nigerian
Institute of Advanced Legal Studies

PROF. ADEOLAADENIKINJU
B.Sc (Econ), M.Sc (Econ), PhD (Ibadan)
Professor of Energy Economics and
Director, Centre for Petroleum Energy
and Law
University of Ibadan

DR. DAMILOLA S. OLAWUYI
LL.M (Calgary), LL.M (Harvard), PhD (Oxford)
Editor-in-Chief, Journal of Sustainable Development Law and Policy

EDITORIAL COMMITTEE

EDITOR-IN-CHIEF

Dr. Damilola S. Olawuyi
LL.M (Calgary), LL.M (Harvard), Ph.D
(Oxford)

MANAGING EDITOR

Omolola Olarinde
B.Sc (Romania), M.Sc (Ibadan)

ASSOCIATE EDITORS

Professor Bayo Oluduro, MPhil (Ife),
Ph.D (Gent)
Dr. Rhuks Ako, MPhil (Ife), Ph.D (Kent)
Dr. Chilenye Nwapi, LL.M (Calgary),
Ph.D (British Columbia)
Dr. Walters Nsoh, M.Sc (Hull), Ph.D
(Surrey)

Dr. Abosede Babatunde, M.Sc (Ibadan)
PhD (Ibadan)

ASSISTANT EDITORS

Ayobami Olaniyan, LL.M (Aberdeen)
Ifeoluwayimika Bamidele, LL.M
(Liverpool)
Adure Uzo-Peters, LL.M (Cambridge)

STATUTES AND CASE NOTE EDITOR

Damilola Odetola, BCL (Oxford)

EDITORIAL OFFICE

Moronkeji Kolawole, *Editorial Secretary*
Tosin Adewunmi, *Editorial Assistant*

CONTENTS

<i>Editorial Comment</i>	xiii
International Legal Protection for Climate Refugees: Where Lies the Haven for the Maldivian People? Simran Dolla	1
An Evaluation of China's Carbon Emission Reduction Policies on Urban Transport System Hou Jiaru and Feng Xiangzhao	31
Eyes on Bangladesh's Disappearing Coasts: Proposed Constitutional Protections for Coastal Communities Particularly Vulnerable to Climate Change Sabrina Persaud	52
Powering Nigeria through Renewable Electricity Investments: Legal Framework for Progressive Realization Peter Kayode Oniemola	83
The Multi-Agency Response Approach to the Management of Oil Spill Incidents: Legal Framework for Effective Implementation in Nigeria Ayobami Olaniyan	109
Enhancing Stakeholder Participation in Nigeria's Niger Delta Region: An Evaluation of the Potential Contributions of the ILO Convention 169 Afolasade Adewumi and Adeniyi Olatunbosun	129
Realizing the Right to Development in Nigeria: An Examination of Legal Barriers and Challenges Olaitan Olusegun and Oyeniya Ajigboye	145
Prisoners' Rights under the Nigerian Law: Legal Pathways for Progressive Realization and Protection Marcus Ayodeji Araromi	169

Customary Arbitration in Nigeria: A Review of Extant Judicial Parameters and the Need for Paradigm Shift Muhammed Mustapha Akanbi, Lukman Adebisi Abdulrauf, and Abdulrazaq Adelodun Daibu	199
The Doctrine of Party Autonomy in International Commercial Arbitration: Myth or Reality? Sunday Fagbemi	222
Penalties and Liquidated Damages in a Changing World: Rethinking the Common Law Position Damilola Odetola	247
Achieving Sustainable Development in Nigeria through Tax Harmonization: Potentials, Paradoxes and Policy Imperatives Aniyie Ifeanyichukwu Azuka	272
Law of the Dance: An Appraisal of the Role of Law in Promoting Appropriate Music Content in Nigeria Augustina T. Clark	297

FROM THE EDITOR-IN CHIEF

I am pleased to present the 6th volume of *Journal of Sustainable Development Law and Policy*. Our Editorial Committee and Board have worked tirelessly over the last months to bring you this Issue, which comprises 13 articles spanning various genres and aspects of sustainable development.

This Issue comes at a defining period for global sustainability. The year 2015 is historic for sustainable development, with the rollout of the United Nations Sustainable Development Goals and the convening of the 21st Conference of Parties to the United Nations climate change convention at the end of the year. With themes covering sustainable development, climate change, renewable energy and dispute resolution, this Issue presents robust viewpoints that will undoubtedly contribute to, and shape, the outcomes and future of these momentous events in global sustainability.

The articles in this Issue easily unpack themselves into clusters with regards to the following questions: (1) How can international law better protect the rights of victims of climate change, while providing structural conditions for reduced greenhouse gas emissions? (2) How can we embrace the promises of integrated governance models, participatory development, and alternative energy to address energy deficits and resource management problems in Nigeria? (3) How can legal frameworks in Nigeria be reformed to better provide normative and contemporary support for alternative dispute resolution, human rights, award of damages, tax harmonization and the protection of traditional values and norms.

With respect to the first question, Simran Dolla and Sabrina Persaud, respectively, unpack the inadequacies of international law in offering holistic protection to communities vulnerable to climate change, and to victims of climate-induced displacements. Still on the subject of climate change, Hou Jiaru and Feng Xiangzhao expertly analyse how innovative transportation policies may significantly reduce the emission of greenhouse gases in China. Concerning the second question, Peter Oniemola's erudite article discusses how the promises of renewable energy investments in Nigeria's moribund power sector, have been stifled by uncondusive laws. Furthermore, Ayobami Olaniyan's insightful paper, and the theory-laden joint article by Afolasade Adewumi and Adeniyi Olatunbosun, respectively, illuminate innovative approaches for

addressing and responding to socio-environmental impacts of oil production in the Niger Delta, while Olaitan Olusegun and Oyeniyi Ajigboye, in their joint article, deliver robust analyses on legal imperatives for realizing the right to development in Nigeria.

Five scholarly articles in this Issue do justice to questions of legal reforms. Marcus Araromi expertly analyses the need to reform extant Nigerian laws to better protect the rights of prisoners, while Muhammed Mustapha Akanbi, Lukman Adebisi Abdulrauf, Abdulrazaq Adelodun Daibu, in their joint submission, eloquently deconstruct the “anglonization” of arbitration in Nigeria to the detriment of traditional knowledge and practices. Sunday Fagbemi then provides insightful analyses of the practical limitations of the doctrine of party autonomy in commercial arbitration. Still on gaps and reforms, Damilola Odetola, in her cerebral article, was very emphatic in advocating for a reform of archaic norms on penalties and liquidated damages that stifle commercial law and practice in Nigeria. The focus of Aniyie Ifeanyichukwu’s empirical and detailed article is the need to harmonize extant tax laws and policies in Nigeria, while Augustina T. Clark’s unique and “melodious” article critically x-rays the need to reform music censorship laws in Nigeria, to phase-out lewd, explicit, and inappropriate content.

The breadth of these subjects, and the geographical spread of the authors, ranging from the United States, Bangladesh, Maldives, China, to Nigeria, all allude to the complex obstacles that remain, before humanity can truly realize sustainable development. How far the world will go in addressing the obstacles will, to a great extent, be determined by progress made in 2015. We at the *Journal of Sustainable Development Law and Policy* restate our commitment to continue to facilitate scholarly exchange and discourse on these themes. As always, we welcome constructive feedback and look forward to your viewpoints.

With infinite gratitude to our Editorial Board, Editorial Committee and the President and Founder of Afe Babalola University – Aare Afe Babalola SAN, OFR, LLD – for their invaluable and continuing support, I invite you to turn the pages of this Issue and enjoy the wealth of knowledge waiting therein.

Truly yours,

Damilola S. Olawuyi | LL.M (Calgary), LL.M (Harvard), PhD (Oxford)
Editor-in-Chief, *Journal of Sustainable Development Law and Policy*
T +234 70 356 776 57 | International: +1 403 890 5339
E: dolawuyi@ogeesinstitute.edu.ng