The Relevance of Human Rights and Human Capital Investment in the Implementation of Sustainable Development Goals (SDGs 3 and 4) in Nigeria

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Abstract

A human rights-based approach to development has found recent support from both State and Non-State Actors in the implementation of the Sustainable Development Goals in addressing development challenges in Nigeria and Africa. Since 2015, in Nigeria, the Sustainable Development Goals (SDGs) have attempted to create a renewed national conversation about the extent of the country's development challenges. These include poor human capital development/investment, infrastructure issues, and the lack of technological innovation, corruption and governance challenges, and the lack of proper government policies on development, which continue to hinder development progress. This thesis set out to define this approach, to examine the extent to which it is relevant, how it is applied, and to evaluate the barriers and challenges to the use of this approach in addressing poor human capital development challenges in Nigeria. This thesis is a library-based enquiry and adopts quantitative, inter-disciplinary, databases, and socio-legal approaches to understanding the context behind the poor human capital development challenges in Nigeria. Through examples this thesis shows how the approach works in practice, it went on to identify and discuss three human rights principles that play key roles to showcase its relevance in the implementation of Sustainable Development Goals SDGs 3 and 4 in Nigeria. This includes (1) participation and inclusion, (ii) non-discrimination and equality, and (iii) accountability. In terms of relevance, this thesis shows that the approach is related to the process of empowerment, and provides an opportunity for the use of legal instruments in defence of the marginalised or vulnerable groups such as women, girls and the Almajiris in the North. This thesis concludes that a human rights-based approach provides new avenues to address the issue of inequality by providing help to the marginalised or vulnerable groups such as women, girls, and the Almajiris in the North thereby ensuring equality between the North and South in terms of development outcomes.

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Abbreviations

ACHPR: African Charter on Human Peoples Rights

ACHPR: American Convention on Human and Peoples Right (1967)

AWI: American War of Independence

AU: African Union

AF: African Commission

AN: African Nationalism

BH: Boko Haram

CEDAW: Committee on the Elimination of all Forms of Discrimination against Women

CATCIDT: Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment

CPPCG: Convention on the Prevention and Punishment of the Crime of Genocide

CCAFL: Convention Concerning the Abolition of Forced Labour

CFREU: Charter of Fundamental Rights of the European Union (Article 20, 21(1) and 23)

CPRW: Convention on the Political Rights of Women

CNRW: Convention on the Nationality Rights of Women

CRPD: Convention on the Rights of Person with Disabilities

CRA: Child Right Acts

CRC: Convention on the Rights of the Child

CEP: Colonial Educational Policy

CC: Clifford Constitution (1922)

DIHR: Danish Institute for Human Rights

DCSO: Danish Civil Society Organisation

DB: Duty-Bearer

ECHR: European Convention for the Protection of Human Rights and Fundamental Freedoms (Article 14 and Protocol No.12)

ESC: European Social Charter

FODSP: Fundamental Objectives and Directives of States Policy

FNDP: First National Development Plan

GEI: Gender Equality Index

General Assembly

GG: Good Governance

HRBADP: Human Rights-Based Approach to Development Programming

HRBAD: Human Rights-Based Approach to Development

HRBA: Human Rights-Based Approaches

HCD: Human Capital Development

HDR: Human Development Report

HCI: Human Capital Investment

HCI: Human Capital Index

HRA: Human Right Activism

HC: Human Capital

ICESCR: International Covenant on Economic, Social and Cultural Rights

ICCPR: International Covenant on Civil and Political Rights

ICPCG: International Conventions on the Prevention of the Crime of Genocide

ICRSR: International Convention Relating to the Status of Refugees

ICRMW: International Convention on the Protection of the Rights of all Migrant Workers and Members of their Family

IMF: International Monetary Fund

IDP: Internally Displaced Person

ICT: Information and Communication technology

IHI: International Human Rights Institution

KPI: Key Performance Index

LC: Lyttleton Constitution (1954)

NEPAD: New Partnership for Africa''s Development

NPC: National Population Commission

NCC: Nigeria Criminal Code

NGO: Non-Governmental Organisations

SSAP: Senior Special Assistant to the President

OHCHR: Office of the United Nations High Commissioner for Human Rights

OAU: Organisation of African Unity

TICPI: Transparency International Corruption Perception Index

MDG: Millennium Development Goals

MC: Magna Cater

NSD: North and South Divide

NA: National Assembly.

ND: Niger Delta

PANEL: Participation, Accountability, Non-Discrimination, Equality and Legal

PG: Poor Governance

PR: Parliamentary Rights (1960)

PA: Pan Africanism

RHRI: Regional Human Right Instrument

RB: Right-Holder

SDG: Sustainable Development Goals

SLA: Social-Legal Approach

SCN: Supreme Court of Nigeria

UNUDHR: United Nations Universal Declaration on Human Rights

UNICEF: United Nations International Children's Emergency Fund

UHHCHR: United Nations High Commissioner for Human Rights

UNESCO: United Nations Educational Scientific and Cultural Organisation

UNDRD: United Nations Declaration on the Right to Development

UDHR: Universal Declaration of Human Rights

UNSG: United Nations Secretary-General

UNDP: United Nations Development Programme

UNMD: United Nations Millennium Declaration

UBEC: Universal Basic Education Commission

UNC: United Nations Charter

WB: World Bank

WCED: World Commission on Economic and Development

WFDD: World Faiths Developments Dialogue

WCHR: World Conference on Human Rights

Acknowledgements

Dedication

This Thesis is dedicated to the Almighty God, the creator of the Heavens and the Earth who in his infinite mercy has seen me through these four years of this research at the School of Business and Law, University of East London United Kingdom. To my Son Enoch Jedidiah Hephzibah who has encouraged me not to give up.

CHAPTER ONE:

INTRODUCTION, STUDY SCOPE, AND METHODOLOGY

1. 1. GENERAL INTRODUCTION

> "There will be no development without equality, no progress without freedom, no peace without justice, no sustainability without human rights" (Pillay. N)[1]
>
> "We will not enjoy development without security; we will not enjoy security without development, and will not enjoy either without respect for human rights" (UN Secretary-General Report, 2005)

In 2015, the United Nations" Sustainable Development Goals (SDGs) set the framework for a renewed national conversation in Nigeria regarding the extent of the country"s complex development challenges. These include oil-dependence, low human capital development/ investment, infrastructure issues, the lack of technological innovation, corruption and governance challenges, and the lack of proper government policies on development, militancy, conflict, and violent extremism, which hinder progress. Like the SDGs, through its 17 goals, 169 targets, and 228 indicators highlight, it has become imperative to improve development processes and outcomes in an equitable, sustainable and inclusive manner in countries like Nigeria. As a global normative and action-oriented framework, the SDGs highlight possible development pathways. Yet, the reality remains, without adaptation to Nigeria"s specific historical, economic, social, cultural, and institutional context, development processes are likely to fail. Highlighting the relevance of human rights in development has been one of the significant contributions of Sen[2]. In defining the ultimate ends of development as an expansion of capabilities and human freedom, Sen adopted human

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[1] Letter sent to all UN Member States by the UN High Commissioner for Human Rights, Navaneethan Pillay. 6 June 2013.
[2] Amartya. S. (2005)," Human Rights and Capabilities" Journal of Human Development Vol 6. No.2. pp.151-166

rights as the fundamental concepts along with "capabilities and functioning, entitlements, and fundamental freedom". The theory and practice of development are documented due to its wide acceptance based on Sen."s idea contribution to development. According to Alston[3], the ultimate purpose of development as the expansion of human freedom can be seen from Sen."s "capability and human development approach which provided a useful conceptual framework within which human rights principles could be incorporated". According to UNDP, human rights and human capital development share a common motivation in light of the above. From the 1948 Universal Declaration, human rights encompass civil, political, economic, social, and cultural rights, and they are reaffirmed through multiple treaties and declarations. They include "everyone having a right to health, sexual and reproductive health, quality education and safe drinking water and sanitation". What then is human right?

According to United Nations[4], Human rights are "rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status. It includes the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work, and education and many more. This is, however, accompanied with the fact that everyone is entitled to these rights without discrimination". The obligation of States to protect, promote and realise all human rights are set out in international human rights law. To address human capital development challenges in Nigeria, a closer look at the international human rights framework can guide on incorporating human rights into development policy and practice. There is a relationship between the actors involved in light of the preceding. In other words, there exists a connection between the Right holder and Duty bearer. The right holders are individuals or group of individuals who

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[3] Alston, P. (2005)," Ships Passing in the Night: The Current State of the Human Rights and Development Debate seen through the Lens of the Millennium Developments Goals"" Human Rights Quarterly 27. pp 755-829

[4] See United Nations.org Available at www.un.org/en/sections/issues-depth/human-rights. Accessed 11 April 2019.

have a claim, and the duty bearers are state and non-state actors who have a correlative duty or obligation[5]. This thesis aims to examine the relevance of human rights and human capital development/investment in implementing SDGs 3 and 4, which are the two central pillars of human capital development in addressing Nigeria's development challenges, particularly in the North when compared to the South. It will also evaluate the current issues or barriers surrounding the concepts of the human rights base approach (HRBA) in addressing development challenges in Nigeria. Nigeria"s diversity is undeniable, with about 198 million people with 250 different ethnic groups, Christian and Muslim populations.[6] Nevertheless, a clear difference in Nigeria"s historical, religious and political reality existed between North and South and provided a legitimate analytical view due to the distinction between them. Development as a concept and its understanding differs from one country to another; it is essential and critical to any country or state's growth and sustenance. The attainment of a higher level of development that enables the citizens of a country to derive natural benefit from good governance is the pride of any government. The socio-political and economic stability are some of the essential features needed for a country or state to be in a phase of development. The gap between North and South in terms of development is not static but is continually widening. The North was presumably characterised by poor human capital development (SDGs 3 and 4), massive poverty, under-employment, decaying physical infrastructures, and structural disarticulation after decades of independence given the enormous resources endowment of the country.[7] Some scholars argued that a more transparent and accountable government would increase the growth process and subsequently address the endless or constant challenge of burgeoning poverty and under-development due to insufficient human capital investment, mostly in the northern part of Nigeria. Another

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[5] Hart, H.L.A. (1995)," Are There any Natural Rights" 64(2) The Philosophical Review 175.
[6] National population Commission 2013; National Bureau of Statistics 2013.
[7] Obadan, M.I. (2001), "Poverty Reduction in Nigeria: The Way Forward." CBN Economic and Financial Review,39(4), December.

unique opportunity to re-strategize and re-orientate the Nigeria state for sustainable economic growth and development came from the country's return to democratic governance in 1999. Unfortunately, considering the non-committal strategy to development in general, this opportunity is said to be toyed with.[8] Besides, what led to the continuous gap in the North and South in terms of development is the lack of human capital development. Some human resource development and social capital development thinkers in the likes of Beckers[9], Schumpeter,[10] Schultz[11] have argued for decades on the importance of human capital development in facilitating development. They further argued that improving the citizens' overall living conditions and the prosperity of a state or country results from the critical role played by human capital and physical capital development, which is also a result of individual workers' productive capability.

Therefore, this thesis will focus mainly on poor human capital development/investment and adopting a human rights-based approach to address Nigeria's development challenges. In Nigeria, it is clear that the past administration's failure to employ the political will and legal framework to combat poor human capital development led to the atrocious causes and impact of poverty on development, especially in the north. The above has become a pervasive phenomenon. Feridun and Akindele[12] argued that gross mismanagement, wasteful spending, and adverse policies of the past administrations denied the multifarious and multitudinous resources from being channelled in North and South in a bid to facilitate development. Further, policy inconsistency and the sustenance of the past administration culture of ad

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[8]Kwannashie, M. (2009), "The Role of Productivity in the Realisation of Nigeria's Vision 20-2020." A Paper Presented at the 10th National Productivity Day Symposium, Organised by National Productivity Centre in Abuja on the 12th of May.
[9] Beckers, G.S. (1993; 1964). Human Capital: A Theoretical and Empirical Analysis, with Special Reference to Education (3rd edition): Chicago, University of Chicago Press.
[10] Schumpeter, J.A. (1942). Capitalism, Socialism and Democracy. Harper (reprinted by Harper Colophon, 1975).
[11] Schultz, T.W. (1993). Origins of Increasing Returns, Oxford, Blackwell.
[12] Feridun, M and Akindele, S. T (2005), "The Crux of the Matter" In M. Feridun and S. T. Akindele (Eds) Nigerian Economy: Essays on Economic Development. North Carolina: Lulu Press, Inc., pp 1-13

hocism negatively impact Nigeria's development, most notably the northern part. This leads to the question of what development is. According to Ajagun[13] development is "a state of advancement which makes life more meaningful in its various aspects, including the economic, administrative, political, social, cultural and religious aspect". Further, to end poverty in all its forms everywhere is the first goal of the seventeen sustainable development goals known as the 2030 agenda for sustainable development. The poverty level in north and south Nigeria can be referred to as systematic and overlapping inequalities that affect the state's institutions' composition. There are higher poverty levels in the northern part of Nigeria compared to the southern region due to insufficient human capital investment or development. From available data, it is evident that the level of poverty in the north as a result of inequality is higher than that of the south according to the National Bureau of Statistic and World Bank[14]. According to National Population Commission 2005[15], economic dependence, joblessness, lack of freedom, over-indebtedness, inability to provide the basic needs of life for self and family, lack of access to land and credit, and failure to save or own assets are the manifestations of poverty, especially in the northern part of Nigeria. In a study carried out in 2010, the National Bureau of Statistics revealed that the most affected region in Nigeria is the rural areas in the north compared to the south. Also, a study carried out by the CBN/World Bank on Poverty Assessment and Alleviation (1999) in Nigeria attests to certain factors like environmental and living conditions of the North"s rural dwellers have worsened. There is a significant increase in poverty in the urban centre in the north compared to the urban centre in the south. Again, certain factors are also responsible for urban poverty in the north, for example, under-provision of employment opportunities, life-improving facilities, and amenities that are inadequate to match the growing demands of the urban populace. The

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[13] See Ajagun, S. O. (2003). The Significance of Culture on Human Development in Nigeria. INTERNATIONAL Journal of Governance and Development, 1 (20):107-116.
[14] National Bureau of Statistics (NBS, 2010); World Bank (2010) Report on poverty in Developing Countries.
[15] National Population Commission (2005)

rural-urban migration has also resulted in some pressure on the existing infrastructural facilities. For this thesis's purpose, the analysis and critique will be based on (SDG 3 and SDG 4) which are the two pillars of human capital development. In Nigeria and Africa, Millennium Development Goal subsequently gave room for the introduction of the Sustainable Development Goals (SDGs). According to Calamari[16], "the Universal Declaration of Human Rights adopted in 1948 is generally agreed to be the foundation of international human rights law. The UDHR has inspired a rich body of legally binding international human rights treaties. It continues to be an inspiration to us all whether in addressing injustices, in times of conflicts, in societies suffering repression, and in our efforts towards achieving universal enjoyment of human rights". Further, rights-based development and the reaffirmation of all states' responsibility to respect, protect and promote human rights, engendered in the Goals of the 2030 Agenda for Sustainable Development (SDGs), provides momentum to re-invigorate debate and build on existing standards. The universally respected credo "leave no-one behind" offers an opportunity to explore both the interpretation and implementation of Economic, Social, and Cultural Rights (ECSR) as well as Civil and Political Rights (CPR) and the right to development as a means to strengthen universal respect for human rights and combat inequalities and discrimination. However, there is a risk that some countries see the SDGs as the new standard, thereby undermining vital human rights conventions and frameworks.

The basic principle of the SDGs, according to the United Nations[17] (UN) is that it "envisages a world of universal respect for human rights and human dignity, the rule of law, justice, equality and non-discrimination; of respect for race, sex, ethnicity, and cultural diversity; and of equal opportunity permitting the full realisation of human potential and contributing to

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[16]Calamari. H. Vice –Chairman of the UN General Assembly's Third Committee, presiding over a meeting on the draft International Covenant on Civil and Political Rights which built on the achievement of the Universal Declaration of Human Rights, using it as its foundation.

[17] See www.un.org/sustainable-development-goals

shared prosperity; a just, equitable, tolerant, open and socially inclusive world in which the needs of the most vulnerable are met". The pictures below illustrate the level of vulnerability of women, girls, and the Almajiris in the North due to poor human capital investment.

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[18] See https://www.google.com/search?q=images+0f+almajiris Accessed 13 February 2020
[19] See https://www.google.com/search?q=images+0f+almajiris Accessed 13 February 2020

According to UBEC[21], Nigeria now has 13.2 million out-of-school children compared to what it was in 2013 when the figure was 10.5 million according to UNICEF. This impacts negative on human capital development in the North compared to South Nigeria. In a bid to address Nigeria's development challenges, there is a need for human capital investment, particularly in the North, to implement sustainable development goals SDG 3 and SDG 4. In light of the above, the SDGs further commit "to foster peaceful, just and inclusive societies, which are free from fear and violence." In light of the foregoing, this thesis focuses on the potential use of Human Right-Based Approaches (HRBAs) in addressing the poor human capital development in Nigeria as one of the main challenges facing the country.

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[20] Ibid

[21] See Universal Basic Education Commission Report (2018)," Rescuing Nigeria's 13.2 Million Out-of-School Children.

1.2. STATEMENT OF RESEARCH PROBLEM

Nigeria, a country in West Africa, is highly endowed with natural and human resources but has not been able to make meaningful development progress over the years. Lack of adequate human capital development (SDG 3 and SDG 4), corruption, credible leadership, lack of consistent economic policy, militancy, mismanagement of natural resources conflict, and violent extremism have hinder development progress in Nigeria. Poor human capital development significantly impedes optimization of available potentials and opportunities to improve society and enhance citizens' quality of life. Chronic development challenges "with its attendant negative symptoms-hunger, poverty, disease, brain-drain, capital flight, huge debts, political instability are consequences of the paucity of human capital".

Poor human capital development, particularly in the North, leads to and perpetuates under development and is entrenched by continued underdevelopment. Examples of the disadvantaged or marginalized include women, girls, and the Almajiris in the North. The SDGs incorporate human rights and human rights-based approaches to development compared to the MDGs in addressing development challenges. According to MacLachlan[22], health equity and health for all recent policy discussions have focused intensely "on an equity and inclusion where everybody has healthcare appropriate to their needs and situation, rather than equal healthcare, where everybody receives the same care options". He states further that health and human rights are inextricably linked and that "health policy draws on the right to the highest attainable standard of physical and mental health."

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[22] MacLauchlan, M., Amin, M. M. Mannan, H. El Tayeb, S. Bedri, N. Swartz, L. (2012)," Inclusion and Human Rights in Health Policies: Comparative and Benchmarking Analysis of 51 Policies from Malawi, Sudan, South Africa and Namibia-PLOS.

1.3.   Objectives of the Study and Research Questions

This study's general objective is to demonstrate the interdependent and indivisible relationship between Human Rights, Human Capital Development and Sustainable Development Goals (SDGs). To explore a sustainable, legal, economic, and political framework that will facilitate development in the North and South of Nigeria in terms of economic, social, and cultural rights on the achievement of development goals. Within this broad objective framework, this research specifically examines the potential use of A Human Rights-Based Approach in addressing Nigeria's development challenges between the North and South. In light of the foregoing, this thesis, therefore, has three main aims:

i.   To examine the extent to which the Human Rights-Based Approach is relevant to achieving SDGs 3 and 4 in North and South Nigeria.

ii.   To explore the extent to which such an approach can be applied to achieve development outcomes.

iii.   To evaluate the barriers and challenges of using a Human Right-Based Approach in Nigeria.

There are different approaches to addressing development challenges, such as the Needs-Based or Service Delivery Approach, Market-Based Approach, and Human Rights-Based Approach. Therefore, it is essential to justify using the Human Rights-Based Approach compared to other development approaches adopted in the past to address Nigeria's development challenges that have failed to achieve the desired development outcomes. First, what is Needs-Based Approach[23]? It is an approach that states that people living in poverty deserve help and support, no matter who provides it and how long they can provide it for.

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[23] See Different Approaches to Development for Oxfam Canada: development in theory and practice session 2015. Available at www.mys.ewb.ca/site_medis/static/library/files/985/23-development-approach-in-theory-and-practice-oxfam-example.pdf. Accessed 1o March 2020

Services should be designed to target and meet the need of the most vulnerable in Nigeria; these are mainly women, girls, and the Almajiris. This perspective focuses on the essential human requirement such as food, water, shelter and security. One of this approach's strengths is that it often targets the individuals and has a clear, measurable impact in terms of delivery. It also focuses on reaching the most people with the least amount of money and often has value for money[24]. It provides a heavy injection of resources that are often valuable to fragile states and weak economies. The Need-Based Approach failed to address development challenges since recipient countries are often not held accountable within this approach. In other words, they can continue to take aid instead of improving their service provision-creating a cycle of dependency[25]. There is a high possibility of corruption when resources and money are placed in a resource-short environment. Violence is often a result of women and marginalised groups gaining access to resources they previously did not have, especially in resource short environment[26].

Further, the Market-Based Approach[27] involves an economy with a fully able working population and an enabling environment that will experience sustainable, inclusive, and equitable economic growth. It focuses on identifying economic opportunities for those in impoverished areas, specifically focusing on women's role as economic and entrepreneurial agents. This approach deals with development challenges by empowering the poor to participate by leading them to income-earning, market-driven, sustainable jobs or enterprises and by identifying and addressing constraints to participation. Addresses the long-term economic needs and impacts of all levels (individual to state) in which the project/program is taking place. Some of the strengths show that investments are both bottoms-up and top-down. In other words, it takes place at all levels, from individual to international, and trickle-

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[24] Ibid
[25] Ibid, 2
[26] Ibid, 3
[27] Ibid 4

down can impact the entire population. It also focuses on sustainability and decreasing the dependence on donor agencies, with heavy involvement of the private sector and/or private sector principles in programming[28]. However, this approach, like the Need-Based Approach, has failed to address development challenges because it is difficult to understand the whole impact as the trickle-down effects are hard to track and measure. Interventions are often conceptualised at the macro-level and lack the context to consider all the effects of program implementation on individuals and communities. Concerning the first aim of this thesis, A Human Rights-Based Approach according to the Robinson[29], a UN High Commissioner for Human Rights (2001) defines it as "a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights". In furtherance of Robinson‟s argument, the UN Secretary-General[30] (1998) sates that a Human Rights-Based Approach to development "describes the issues not simply in terms of human needs, or developmental requirements, but in terms of society‟s obligation to respond to the inalienable rights of individuals, empowers people to demand justice as rights, not as charity, and gives communities a moral basis from which to claim international when needed".

The Human Rights-Based Approach empowers individuals/communities and holds duty-bearers that are governments or international institutions accountable for fulfilling their obligations to support human rights. It ensures that everyone (especially women) has the right to a livelihood, essential services, be safe from harm, be heard, and treated as equal by transforming power relations among various stakeholders and identifying the key obstacles that keep people from fulfilling their rights. Some of the strengths are that it considers the complexity of enabling someone's rights at the individual, household, community, state, and international level. It does not necessarily require resources that communities may not have-

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[28] Ibid 5
[29] Statement from Mar Robinson, United Nations (UN) High Commissioner for Human Rights (2001)
[30] See Statement from the United Nations (UN) Secretary-General (1998)

considers how to accomplish goals with existing resources. HRBA process is often led by those who need to claim their rights, therefore meets the needs of those individuals/groups in a culturally appropriate manner. It also considers the role that individuals and institutions play in an interconnected world, holding all actors accountable for their influence, thus making the process sustainable.

With regards to the second aim, this thesis evaluates human rights-based approaches to health and education by first examining the key elements and the rights to education and health in various legal frameworks such as the global or international treaties, the rights to education and health at the regional level and the rights to education and health in Nigeria Legal Framework. The right to quality education and access to quality education and health vis-à-vis the human rights-based approach to achieving development outcomes is examined. In considering the third aim, the Human Rights-Based Approach empowers individuals, the rights holders, and places obligations on the duty bearer. However, there are barriers and challenges to using the Human Rights-Based Approach in Nigeria. To address Nigeria's development challenges, these barriers and challenges to using the Human Rights-Based Approach must be addressed to achieve development outcomes in North and South Nigeria.

RESEARCH QUESTIONS

(1) To what extent is a Human Right-Based Approach relevant to achieving SDGs 3 and 4 in North and South Nigeria?

(2) In what ways can such an approach be applied to achieve development outcomes?

(3) What are the barriers and challenges using a Human Rights-Based Approach in Nigeria?

1.4.   RESEARCH METHODOLOGY

This thesis, through a library-based inquiry, adopts quantitative, inter-disciplinary databases and socio-legal approaches to understanding the context behind Nigeria"s developmental challenges. The formulation of the research questions also underpins the design of this thesis as a whole and implies what form the study will take. In other words, in preparing for this research, the researcher will also decide the kinds of methods to use and the sorts of data to collect. The researcher made several decisions regarding the operationalisation of the approach and methods chosen, and include sampling, access, and ethical issues. These decisions were taken in the context of the research's purpose and the time and resources available. Most importantly, each decision has been adequately reasoned and justified to ensure that the research is as valid, reliable, and robust as it can be. The quantitative approach is chosen over the qualitative approach as a result of, first, the sampling size. In other words, in the vast majority of research designs, a sample will be used. Sometimes, the sampling strategy will be complex, including elements of time, location, people, and events. Second is the issue of access. In other words, getting access to a research setting of this nature can be difficult for an individual, especially if that setting involves a social group such as women, girls, and the Almajiris in the North. Access is a particular problem for observational work. Even when access is secured, difficulties can occur when accepted by the people within the setting. The third is the issue of ethical and legal considerations. Awareness of the ethical problems in research is of enormous importance. The researcher must address ethical or legal issues as part of the research design process. The University of East London Ethics Committee receives the applications from the students whose research involves human participants, human data, or human material. However, the University Research Ethics Committee (UREC) pays attention to the researcher's security and safety. Obtaining clearance for research of this nature can be very difficult due to security challenges bedeviling Nigeria.

The security challenges in North and South Nigeria are alarming, particularly in the North with kidnapping, violence, Fulani Herdsmen, and most importantly, terrorism challenges in the North.

Further, one of the qualitative research methodology critiques is that it is difficult to replicate. The quantitative approach helps address specific questions about relatively well-defined phenomena such as the one address in this thesis. Quantitative analysis[31] requires high-quality data in which the variables are measured well, and this can be challenging when researching complicated or understudied areas of this nature that do not lend themselves well to being measured with specific variables. Therefore, because it uses deductive logic and is more easily viewed as "real science," the quantitative approach is often perceived as providing more substantial empirical evidence than other research approaches. The quantitative or secondary sources include Case Law, local statutes, such as the Constitution of the Federal Republic of Nigeria (LFN), 1999, Nigerian Criminal Code, Child Rights Act and International Statutes, such as the Universal Declaration on Human Rights (UDHR) 1948, texts of international treaties and conventions, such as the "International Convention on the Prevention of the Crime of Genocide; the International Convention on the Elimination of All Forms of Racial Discrimination., The International Convention Relating to the Status of Refugees, the Convention Against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment; The Convention on the Right of the Child; the Convention Concerning the Abolition of Forced Labour; The Convention on the Political Rights of Women; The Convention on The Nationality Rights of Women; Convention on the prevention and punishment of the Crime of Genocide, etc. For instance, the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief". Notable local and international judicial decisions in this emerging area will form the

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[31] See Statistics Solution, Academic Solutions Advancement through Clarity. Available at www.statisticssolutions.com/quantitative-research-approach/ Accessed 25 December 2020.

remaining primary materials sources. In addition, other secondary sources include relevant books, journal articles, United Nations Human Rights documents, and Geneva Academy briefing paper, World Bank, United Nations Development Programme, Danish Institute for Human Rights Briefing Paper, materials from periodicals in these fields, and materials from the internet. All data obtained will be subjected to content and contextual analysis. The applicability of the legal paradigm is first considered in choosing this methodology. A paradigm is a pattern or system of research according to Habermas[32]. To categorise identifiable legal concepts needed in theory building, a legal paradigm is necessary or essential because there is no scientific description of law Hergret[33] (1984). According to Wheeler and Thomas (2000), a Social-legal approach is "a combination of methods for the study of law in context". In other words, they perceived the social-legal approach as an interdisciplinary alternative and a challenge to doctrinal studies of law. The use of databases in this thesis is essential in the North and South divide's critical analysis. It is regarded as a secondary source and it refers to any existing sources of information that have been collected by someone other than the researcher and with some purpose other than the current research question.[34] The Secondary data source is attractive for several reasons: First, research of this nature can be an expensive and arduous. It is a great advantage if the data you are interested in is already available. Second, many of the available data sets are large-scale and, therefore, much more substantial than average researchers could achieve alone or work in a small team. Third, the available data sets have usually been produced by professional research agencies/consultants and have been subject to high standards of validity and quality control. Finally, it involves a new interpretation of data and can give rise to novel findings, making

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[32] Habermas, J. (1978) Knowledge and Human Interest, London: Heinemann Publishing
[33] Hergret, J. E. (1984). The Scientific Study of Law: The Influence of Competing Patent Perspectives. Fordham International Law Journal 35, (1) 1-97.
[34] Davies et. al., (2011), „Doing Criminological Research „(2ed). Sage Publication Ltd: London

the most out of data that would otherwise lay underexploited.[35] Therefore, the proposed research involves a quantitative content analysis of the North and South divide.

The reason for this is that it is a comparative study over time between north and south Nigeria. Silverman[36] noted that it is "an inductive view of the relationship between theory and research, whereby the former is generated out of the latter". Dabbs[37] argued that the notion of quality is essential to the nature of things to differentiate between quantitative and qualitative. On the other hand, quantity is associated with the amount of something. Quality can be defined or is refers "to the how, what, when and where of a thing, its essence and ambience. Further, one of the critiques of qualitative research methodology is that it is difficult to replicate. Further, since research in law has evolved over the years and can no longer be studied in isolation, this thesis has also adopted an interdisciplinary approach and a quantitative research method stated earlier. It is also important to note that the interdisciplinary approach has also been adopted as a result of the pertinent issues discussed in this thesis which is interdisciplinary in nature. According to Mansilla[38], an interdisciplinary approach is regarded as "the capacity to integrate knowledge and modes of thinking drawn from two or more discipline to produce a cognitive advancement for example, explaining a phenomenon, solving a problem, creating a product, or raising a new question-in ways that would have been unlikely through single disciplinary means… the integration of disciplinary perspective is a means to a purpose not an end in itself" Posner[39] also argued that there is "A boom in other disciplines complementary to the study of law… in other important fields, such

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[35] Arber, S. (2001)," Secondary analysis of survey data", in Gilbert, N. (ed) Researching Social Life, London: Sage.

[36] Silverman, D. (2010) Doing Qualitative Research, (3ed); Ritchie et. al., (2013) Qualitative Research Practice: A Guide to Social science student and Researchers (2ed). The National Centre for social research (NatCen); Bryman, A. (2012) Social Research Method (4ed): Oxford University Press: New York.

[37] Dabbs, J. M. Jr (1982) Making things visible in J. Van Maanen (ed), Varieties of Qualitative Research. Beverly Hills, CA: Sage.

[38] Mansilla, V. B. (2005)," Assessing Student work at Disciplinary Cross roads, Change Magazine. January/February 37:2, 20-27.

[39] Posner, R. A. (1987), „The Decline of law as an Autonomous Discipline: 1962-1987," 100 Harvard Law Review, 761, pp.1-21.

as torts, property law, environmental law, and labour law, the economic approach is making rapid strides…Philosophy has also made notable progress in areas related to law." The theory of public choice, which is a hybrid of economics and political science, is beginning to be used in the analyses of law. In light of the foregoing and those mentioned earlier, the use of quantitative, inter-disciplinary, databases, and social-legal approaches will be suitable or preferable in this thesis.

1.5.   Expected Contribution to Knowledge and Originality

One of the reasons we have differential development outcomes between North and South Nigeria is inequality in human capital development/investment and human rights identified as a gap in knowledge in my literature review. Inequality exists between women, girls, and the Almajiris in the North compared to their South counterparts. These marginalised groups constitute the largest population in the North, which represents the labour force, thereby affecting human capital development. Therefore, this thesis evaluates these development challenges both as courses and responses and the need for improvement due to the lack of human rights and human capital development in the North, suggesting how this can be addressed to ensure equality. It is important also to state that this thesis is an interdisciplinary approach; second is that there are developments discourses on the one hand and on the other hand are the idea of social-economic development, and third is the idea of legal issues that is human rights. In other words, this thesis looked at these challenges from human rights, human capital development, and the SDGs perspectives, which are often in isolation and bringing them together for monitoring purposes to address Nigeria's development challenges. Another contribution to knowledge is that rather than looking at the SDGs in isolation, this thesis looked at it as a complex factor. In other words, this thesis examined it both as an intervention and as a context. Another contribution to knowledge is that Nigeria should not

be seen as a monolithic country, but being able to see Nigeria as a country that comprises the North and South divide. The study is significant in the sense that it is a pioneer work of reasonable detail, known to the author, which examined the relevance of human rights-based approach and human capital investment in the implementation of sustainable development goals SDGs 3 and 4 in North and South Nigeria which is useful in redefining the scope of economic, social and cultural rights for sustainable good political governance to achieve development goals. The study is expected to fill this vacuum by providing insight into contemporary legal and socio-economic issues relating to the adoption of a human rights-based approach in addressing the poor human capital development in Nigeria by ensuring transparency and participation of those individual or group of individuals who are denied the opportunities to contribute their quota to the development of Nigeria, and their lives are affected by the decisions made on their behalf by the duty-bearer.

The work will explore the nature, prospect, and challenges of the human rights-based approach in addressing the poor human capital development SDG 3 and SDG 4 in North and South Nigeria. It will thereby provide useful information to Nigeria and developing economies for a regulatory human rights regime that primarily focuses on access to justice, promotion, and human rights protection. It will particularly reference the use of Human Rights-Based Approaches to Development that ensures the principles of equality and participation of the vulnerable group, particularly women, girls, and the Almajiris in the North. The need to also ensure that the citizen enjoys the rights to both quality education and good health care, this will, in turn, empower the marginalised group to actively participate in the decision that affects their lives by ensuring policy changes that negatively impact their development potentials. The need to reform customary laws, that discriminates against women and ensures economic and social policies and most importantly invest in human capital development and financial resources to carry out such laws. The study's outcome may

thus assist Nigeria in addressing inequality in terms of human capital development between women, girls, and the Almajiris in the North and those of the South. It will also help formulate, implement, and adopt national and international regulatory frameworks on human rights protection for economic and social development.

1.6.   Significance of the Study

This thesis's importance is to show the relevance of human rights and human capital investment in implementing Sustainable Development Goals (SDGs 3 and 4) in addressing Nigeria's development challenges, particularly in the North as the country strives to achieve the 2030 development agenda. It promotes the need to adopt a human rights-based approach in addressing development challenges by evaluating the existing "legal framework, the rights to development as an international legal framework which serves twin purpose of adjudication and implementation for realising human rights and development". Adopting a human rights-based approach will ensure that the marginalised or vulnerable, particularly women, girls, and the Almajiris in the North, are given the opportunity to development their skills by acquiring quality education and good health and wellbeing. This is to address inequality between North and South Nigeria. The human rights-based approach to development seeks to "ensure accountability and good governance and therefore ensure that the duty bearers are responsible and responsive to its citizen". This provides a level playing field between the North and South to address the country"s development challenges.

1.7.   Scope and Limitation of Study

Geographically, this study focuses on development challenges in Nigeria, particularly human capital development SDGs 3 and 4 in North and South Nigeria. The study examined the relevance of human rights and human capital investment in implementing of sustainable development goals (SDGs), which is relatively novel. The study examines the issues

surrounding development challenges by looking at the right to development from various legal frameworks such as international, regional, and national. It evaluates the link or interdependence between human rights, human capital development, and the SDGs. This thesis adopts the human rights-based approach and its applications in addressing Nigeria‟s development challenges. It also evaluates the "African human right framework and the Nigeria constitution" in terms of applicability, barriers, and challenges.

1.8.   Structure of the Study

The study is divided into seven chapters: Chapter one consists of the general introduction, the statement of the research problem, objectives of the study, research questions, research methodology, the originality and contribution to knowledge, scope, and significance of the study. Chapter two focuses on the nature and scope of Human Rights-Based Approaches and gives an expansive overview of underpinning principles. These include universality and inalienability, indivisibility, interdependence and inter-relatedness, equality and non-discrimination, participation and inclusion, accountability, the rule of law, and the concept of duty-bearer and right-holders. These fundamental principles of human rights are then applied in the context of the African Regional Human Rights System, followed by a discussion of the African (Banjul) Charter on Human and People‟s Rights. The chapter ends with a discussion of Article 22. This chapter emphasises the research's Human Rights context and helps orientate the study's emphasis on dealing with Nigeria's development challenges. Chapter three is the literature review, and it examines the meaning and understanding of the key concepts assessed in the thesis, such as Human Rights, Human Capital Development and Sustainable Development Goals (SDGs). Theoretical and Conceptual Framework of Human Rights, Human Capital Development and SDGs will also be looked into. It explores the linkages between Human Rights, Human Capital Development, and SDGs. Human Rights-

based approach to development and the rule of law are accessed and used to evaluate Human Rights and the SDGs in African perspectives. This frames the overall approach of the research and its scope. Chapter Four of the study focuses on understanding development challenges in Nigeria by looking at the poor human capital investment or development level. It starts by evaluating the concepts of Human Rights and poor Human Capital Development in Nigeria and Africa from the Pre-Colonial to Post Colonial Era and its relevance in implementing the Sustainable Development Goals (SDGs 3 and 4). It then focuses on the contemporary development challenges in Nigeria and the relevance of human rights and human capital investment. Barriers to the implementation of SDGs 3 and 4 are evaluated in this chapter and inequalities between the North and South. Chapter five gives an in-depth analysis of the Barriers and Challenges to the operationalisation of Human Rights-Based Approaches in Nigeria. These include the lack of implementation and enforcement of laws and policies, globalisation and its negative consequences, and the lack of respect for all human rights. Other issues include the lack of good governance, lack of transparency and accountability, judicial performance, the lack of access to justice for all to ensure no one is left behind, which is the major pillar of the SDGs. Lack of institutional capacity, human rights education, inequality and discrimination, and human rights-based approach to participation identified in the literature review of this thesis also play a vital role in addressing Nigeria's poor human capital development, particularly in the North. The lack of monitoring and evaluation will also hinder the human rights-based approach if not addressed. Chapter six discusses using Human Rights-Based Approach in addressing Nigeria‟s development challenges in a bid to answer the second research by looking at human rights mechanism. Key elements of the right to Health and Education, the right to Health and Education, and its normative content, the right to Education from the international, regional and national framework and the need for human capital investment will also be examined.

This perspective will further interrogate how participation and inclusion could help in addressing Nigeria development challenges particularly the marginalised or vulnerable group such women, girls, and the Almajiris in the North. The need for equality of opportunities and applying human rights to achieve development outcomes could help address Nigeria's development challenges, particularly in the North.

Chapter seven provides conclusions, reflections and observations, and recommendations. It starts by reflecting on the research themes and concepts, with the critical argument that Human Rights-Based Approaches are fundamental to sustainable development strategies. It then discusses the need for institutional development, followed by the need for a Human Rights-Based Approach to participation and inclusion. These frame the focus on ensuring fundamental human rights to education and health, which have been seen as key challenges to Nigeria"s development progress, and ensuring equality and non-discrimination. Fundamentally, this requires providing adequate funding for human capital development linked to SDGs 3 and 4- and ensuring effective judicial performance. The study concludes by confirming the pivotal role that Human Rights-Based Approaches has in the realisation of development objectives and its linkages with the range of opportunities and challenges faced by Nigeria.

CHAPTER TWO:

DEFINING A HUMAN RIGHTS-BASED APPROACH TO DEVELOPMENT

"The developmentalists are seeking to reformulate their concerns in the language of rights, while the human rights advocates are taking on Board developmental issues without which, they recognise rights-talk can have little meaning to, and legitimacy with the vast majority of the people in the poor countries of the South "(Shivji[40], 1999)

"Human rights-talk should be historically situated and socially specific for the African perspective this ought to be frankly without being apologetic. Any debate conducted on the level of moral absolutes or universal humanity is not only fruitless but ideologically subversive of the interests of the African masses" (Shivji[41], 1989)

2.1 Evolution of the Human Rights-Based Approach to Development

Human rights as an instrument of transformation and justice gained prominence at a global level after the horrors of World War II. The process of decolonisation unfolded parallel to the growing importance of human rights. Development assistance, particularly in Africa, has become an essential aspect of North-South relations. In the early decades after World War II, human rights and development were occasionally linked in operational development work even though each played a prominent role in the post-war years. However, immediately after the end of the Cold War, the United Nations[42] (UN) General Assembly in 1986 adopted the Declaration on the Right to Development in its Charter. In furtherance to this adoption in

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[40]Shivji. I.G. (1999)" Constructing a New Rights Regime: Promise, Problems and Prospects" Sage Journal: Sage Publication

[41]Shivji. I.G. (1989)" The Concept of Human Rights in Africa"

[42] See Para. 10 of the Vienna Declaration and Programme of Action. This declaration was adopted by the World Conference on Human Rights in Vienna on 25 June 1993. Available at http://www.ohchr.org/Documents/Professionalinterest/viena.pdf.Accessed 11 July 2019.

1993, a declaration was reaffirmed by the World Conference on Human Rights in Vienna. Increasingly, a human rights-based approach to development would be applied by different actors within the field of development cooperation. However, different actors have at one time, or the other has applied diverging or sometimes "inconsistent" definitions of the concept of a human rights-based approach to development. In chapter 2 of this thesis, different definitions of a human rights-based approach have been examined, but according to Robinson[43] a UN High Commissioner for Human Rights (2001) defined it as "a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights". According to UN Secretary-General[44] (1998) states that a human rights-based approach to development "describes situations not simply in terms of human needs or developmental requirements, but in terms of society"s obligations to respond to the inalienable rights of individuals, empowers people to demand justice as aright, not as a charity, and gives communities a moral basis from which to claim international assistance when needed".

Also, United Nations (UN) bodies, as a result of applying diverging approaches that caused problems and to address these issues, convened a workshop on the matter, which led to a statement entitled "The Human Rights-Based Approach to Development Cooperation-Towards a Common Understanding among the United Nations Agencies[45]". In light of the foregoing, the United Nations Development Group aware of the inconsistency in the understanding and application of the human rights-based approach adopted a statement that is universal to ensure consistency in the application of a human rights-based approach by the

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[43] Statement from Mar Robinson, United Nations (UN) High Commissioner for Human Rights (2001)
[44] See statement from the United Nations (UN) Secretary-General (1998)
[45] See the Frequently Asked Questions on a Human Rights-Based Approach to Development Cooperation, Office of the United Nations High Commissioner (New York AND Geneva: UN, 2006). 35. Available at http://www.ohcr.org/Documents/Publications/FAQen.pdf. Accessed 12 July 2019.

various United Nations Agencies[46]. According to the wordings of the United Nations (UN) towards a common understanding implies that:

> "The Universal Declaration of Human and People"s Rights contains all Programmes of development including policies, cooperation and technical assistance and other human rights instruments should further the realisation of human rights; As a guide to development, human rights standards and principle as derived from international human instruments should serve in all sectors and all in phases; and the capacities of the duty bearers to meet their obligations and the rights-holders to claim their rights should be enhanced as a result of the contribution made through programmes of development".[47]

A human rights-based approach requires four key elements based on "common understanding" these include (A) to identify humans right claims and the obligations of the duty bearers that need to be examined, (B) the ability of the right holders to make a claim and the duty bearers to carry out or fulfil their obligations (C) human right standards and principles should act as a guide in terms of process and an evaluation of the outcome (D)The need for the application of the recommendations made by the international human rights bodies and mechanisms.[48] According to Musembi and Cornwall,[49] a human rights-based approach is "a contemporary framework of the United Nations. It was an approach formulated to be applied for the development of human rights issues, such as health, development, education, sanitation and water" In other words, the protection and promotion of all human rights, a human rights-based approach helps to set out a uniform standard to be

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[46] See "The human rights-based approach to development cooperation; towards a common understanding among UN Agencies. Available at http:// hrbaportal.org/the-human-rights-based-approach-to-development-cooperation-towards-a-commom-understanding-among-un-agencies.Accessed 12 July 2019.
[47] See the United Nations Environment Programmes (UNEP) Available at http://www.unep.org/document.multilingual/default.asp?DocumentID=43ArticleID=4532 Accessed 14 July 2019
[48] Ibid
[49] Musembi. N and Cornwall (20040 IDS working paper 234

followed which in turns helps to eradicate inequalities, address discrimination, empower the vulnerable and boost development in North and South Nigeria. According to Olowu[50], there is "a primary responsibility for both the duty bearers and the rights holders, which a human rights-based approach would address by emphasising the accountability and responsibilities of government or providers and the consumers". The following are the key features of a human rights-based approach to development. These are:

1 Universality and inalienability

2 Indivisibility

3 Inter-dependence and inter-relatedness

4 Accountability

5 Participation and inclusion

6 Equality and non-discrimination

7 The rule of law[51]

2.2 The Key Features of a Human Rights-Based Approach to Development

> "Human rights are your God-given rights. Human rights are the rights recognised by all the nations of this earth" (Malcolm X, 1964)

> "Human rights and human development are profoundly tied and lie at the heart of the Sustainable Development Goals. Each goal can best be achieved when we address the rights-related issues of equality non-discrimination, participation, inclusion, accountability and social justice as well as international solidarity and cooperation. This means that approaches to achieve the SDGs must be based on human rights, with attention not only to development

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[50] See Olowu. D. (2014) 35 Obiter 219.
[51] See United Nations Development Programme (UNDP, 2015)

results but also to the ways in which development is pursued"
(Brown, UNDP Administrator)

In recent years an increasing emphasis has been placed on human rights-based approaches to development. The importance of a human rights-based approach brought about a shift from needs-based or service-delivery approaches that failed to "substantially" reduce poverty and address development challenges in Nigeria and Africa. One fundamental limitation of both the needs-based or service-delivery approaches has been that the authority who undertakes these approaches may not be sensitive to the needs of the vulnerable or poor in Nigeria. This thesis will argue that combining human rights with development and activism can be more effective than any single approach that has been adopted in the past to address Nigeria"s development challenges. To answer the first research question: to what extent is a human rights-based approach relevant to achieving SGDs 3 and 4 in Nigeria? This thesis will first examine the key features or principles of a human rights-based approach to development stated above. This is important because it integrates the norms, standards, and principles of international human rights into the entire development process to address its challenges. It also seeks to educate and empower individuals and communities known as the "Right-Holder" to claim their rights and create awareness among governments and other relevant institutions, also known as "Duty-bearer" of their obligations to fulfil, respect, and protect human rights in Nigeria and Africa. The following are the key features or principles of a human rights-based approach to development:

2.3 Universality and inalienability: Article 1 of the Universal Declaration of Human Rights states that "All human beings are born free and equal in dignity and rights". In other words, human rights are universal and inalienable because it is an entitlement of all people all over the world. The universality of human rights' nature makes it differs from other types of rights such as contractual or citizenship rights. Also, no particular group, such as geographically

disadvantaged North based on the principle of universality, is left out of the reach of development. This is in line with one of the pillars of the 2030 Agenda for Sustainable Development and the Sustainable Development Goals and one which represents a critical improvement over the Millennium Development Goals is the pledge to leave no one behind.

2.4 Indivisibility: Human rights are indivisible looking at different categories of human rights: civil and political rights as compared to economic, social, and cultural rights; rights of individuals as compared to rights of collectiveness; one-dimensional rights as compared to rights of a composite nature. It has also already been made clear that all these rights are intersected and interrelated. In other words, they condition each other, with the human person, as the UN Declaration on the Right to Development puts it, as "the central subject and beneficiary of rights[52], and, in the words, of the preambles of the international covenants, with a focus on the ideal of free human beings enjoying freedom from fear and want". In light of the foregoing, the indivisibility of all human rights, whether or not classified in various categories, has become a leading axiom in the international human rights discourse. Also, other United Nations (UN) instruments, statements, and practices can be advanced to underline this indivisibility. For instance, the Proclamation of Teheran[53], adopted at the first World Conference on human rights in 1968, stated that human rights and fundamental freedoms are indivisible. The second World Conference held in Vienna in 1993 stated with greater emphasis that all human rights are universal, indivisible and interdependent, and interrelated[54]. The outcome document of the 2005 World Summit reaffirmed this statement[55]. The General Assembly resolution of 2006 establishing the Human Rights Council again reiterates that "all human rights are universal, indivisible, interrelated, interdependent and

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[52] See GA Res 61/295 (13 September 2007) Preamble
[53] See UN, Compilation of International Instruments, Vol 1 (First Part) (1993) 51-4, Art 13.
[54] N 12, para 5.
[55] N3, para 13

mutually reinforcing and that all human rights must be treated in a fair and equal manner, on the same footing and with the same emphasis[56]".

2.5. Inter-dependence and Inter-relatedness: Much attention has been given over the years to the distinction between, on the one hand, economic, social ,and cultural rights such as the rights to an adequate standard of living, education and work, and on the other, civil and political rights such as the rights to life and integrity of the person, freedom of thought, expression, association, and assembly, and the rights to liberty and a fair trial[57]. There is indeed a significant difference between the two regarding the nature of states parties" obligations under the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR) are concerned. While Article 2 ICESCR provides for the progressive realisation of economic, social, and cultural rights and acknowledges the constraints due to limits of available resources, the parallel Article 2 ICCPR prescribes the obligation to respect and ensure all civil and political rights as an immediate obligation[58]. Nevertheless, the Committee on Economic, Social, and Cultural Rights states that there are also significant similarities between the ICESCR and the ICCPR despite this difference. Human rights are interdependent and interrelated as CESCR General Comment 14 states:

> "The right to health is closely related to and dependent upon the realisation of other human rights… including the rights to food, housing, work, education human dignity, life, non-discrimination, equality, the prohibition against torture, privacy, access to information, and the freedoms of association, assembly and

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[56] See GA Res 60/251 (3 April 2006) preambular para3.
[57] Boven. V. (1982)" Distinguishing Criteria of Human Rights in Vasak and Alston" International Dimension of Human Rights: Vol 1 (UNESCO/Greenwood Press) 87
[58] See CESCR, General Comment 20

movement. These and other rights and freedom address integral components of the right to health"[59].

The ICESCR imposes various obligations of immediate effect[60]. Thus, there are several provisions in the ICESCR that, as the Committee has pointed out in its General Comment 3, would seem to be capable of an immediate application by judicial and other organs in many domestic legal systems. This includes the following, the elimination of discrimination (Article 2(2) and (3), the rights to form and join trade unions and to strike (Article 8), protection of children and young persons from economic and social exploitation (Article 10(3), equal remuneration for work of equal value without distinction of any kind (Article 7(a)(i), the provision of free and compulsory primary education for all (Article 13(2)(a), the liberty of parents to choose schools for their children, other than those established by public authorities (Article 13(3), and the liberty of individuals and bodies to establish and direct educational institutions which conform to specific minimum standards (Article 13(4)[61]. In light of the foregoing, the realisation of one right often depends totally or partly on others' realisation. For instance, the realisation of the right to SDG 3 (health) may or could rest solely on the realisation of the right to information

2.6. **Equality and Non-discrimination**: The notion that all human beings are equal and therefore deserve to be treated equally has a powerful, intuitive appeal. It has one of the central ideas of the Enlightenment and at the heart of liberal theories of the state[62]. The US Declaration of Independence of 1776 famously proclaimed that „all men are created equal", and today, virtually every liberal democratic state guarantees equality in its constitution. The principle of equality and non-discrimination has gained a similarly important international law status. It is included in the key human rights instruments and the Vienna Declaration and

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[60]See CESCR General Comment 14.ee CESCR, General Comment 3, HRI/GEN/1/ (Vol1) 7, para 1.
[61]Ibid, para 1 and 5.
[62] Hobbes. T. (2009) Strange selves" many modern versions of the text are available

Programme of Action, adopted by the World Conference on Human Rights in 1993, describe it as „a fundamental rule of international human rights law[63]". The term „equality" and „non-discrimination" have often been used interchangeably and described as the positive and negative statement of the same principle, whereas the maxim of equality requires that equals be treated equally; the prohibition of discrimination precludes differential treatment on unreasonable grounds[64]. Adopting a human rights-based approach requires a particular focus on addressing discrimination and inequality in North and South Nigeria. According to Kirk-Greene[65]:

> "Fear has been constant in every tension and confrontation in political Nigeria not the physical fear of violence, not the spiritual fear of retribution, but the psychological fear of discrimination, of domination. It is the fear of not getting one"s fair share, one"s dessert"

A human rights-based approach is relevant to achieving the SDGs in Nigeria because the right to equality and non-discrimination gives concrete expression to the basic idea that the whole international human rights system is founded. The right states that all human beings, regardless of their status or membership of a particular group, are entitled to a set of rights. Article 1(3) of the UN Charter clarifies that one of the UN's primary purposes is the promotion of the equal guarantee of human rights for all without any distinction. The general human rights instruments guarantee the rights to equality and non-discrimination in several of their provisions: the UDHR in Article 1, 2(1), and 7; the International Covenant on Civil and Political Rights (ICCPR) in Article 2, 3, and 26; and the International Covenant on

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[63] See A/CONF.157/23 (25 June 1993) para 15.

[64] See OC-4/84, Proposed Amendments to the Naturalisation Provisions of the Constitution of Costa Rica, IACtHR Series A No 4 (1984), separate Opinion of Rodolfo E Piza, J, para 10 (… it appears clear that the concepts of equality and non-discrimination are reciprocal, like the two faces of one same institution. Equality is the positive face of non-discrimination. Discrimination is the negative face of equality).

[65] Kirk-Greene, A.H.M. (1975) "The Genesis of the Nigeria Civil War and the Theory of Fear". Nordic African Institute, Uppsala.

Economic, Social and Cultural Rights (ICESCR) in Article 2(2) and 3. Three specialised human rights treaties that are specifically devoted to addressing specific forms of discrimination are the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD), the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), and the Convention on the Rights of Persons with Disabilities (CRPD). The Convention on the Rights of the Child (CRC) and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW) at least partly pursue the same objective and contain explicit provisions on equality and non-discrimination[66].

Further, the only international human rights treaties without explicit non-discrimination clauses are the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) and the International Convention for the Protection of All Persons from Enforced Disappearance. All principal regional human rights instruments also guarantee the rights to equality and non-discrimination: the African Charter on Human and Peoples' Rights (ACHPR) (Articles 2, 3, 18(3)-(4), and 28), the American Convention on Human Rights (ACHR) (Articles 1 and 24), the American Declaration of the Rights and Duties of Man (Article 11), the Arab Charter on Human Rights (Articles 2, 9, and 35), the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) (Article 14 and Protocol No 12), and the Charter of Fundamental Rights of the European Union (Articles 20, 21(1), and 23). Lastly, it is now widely acknowledged that, at the very least, the rights to non-discrimination on the grounds of race, sex, and religion binds all states, irrespective of their ratification of human rights treaties, because it has become part

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[66] See CRC, Article 2 and 28; ICRMW, Article 1(1), 7, 18, 25, 27, 28, 30, 43, 45, 54, 55, and 70.

of customary international law[67]. The relevance of a human rights-based approach in achieving human capital development (SDG 3 and 4) in Nigeria requires safeguards to be included in development instruments to „protect the rights and well-being of marginalised groups". While seeking to empower local participants, all development decisions, policies, and initiatives including those concerning (SGD3) healthcare and (SDG 4) education, are also expressly required to guard against reinforcing power imbalances or contributing to the creation of new ones.

2.7 Participation and Inclusion: This is a process "through which human rights and fundamental freedom can be enjoyed by every person and all peoples who are entitled to active, free and meaningful participation in, contribution to and enjoyment of civil, economic, social, cultural and political development[68]". In addressing development challenges in Nigeria, there is a need to actively and meaningfully engage rights-holders. In other words, a human rights-based approach is relevant in the implementation of SDG 3, which is good health and a well-being older person who is a right-holder should participate in all decisions about the care and support they are receiving. A human rights-based approach to education and learning helps analyse why girls, boys, women, and men a

re not accessing education or reaching learning targets, particularly in the North compared to the South. Different approaches have been adopted in the past in Nigeria to address her development challenges, such as needs or service delivery approaches. Still, they fail to address the barriers to school address, failing to foster a culture of education where children are valued, and not engaging parents and local communities in supporting education.

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[67] For Race, see e.g. South-West Africa Cases (Second Phase) (1966) ICJ Rep 6, 293 and 299-300 (Tanaka, J Dissenting; Barcelona Traction (Second Phase) (1970) ICJ Rep 3, 32. See also Shaw, International Law (CUP, 2008) 287
[68] See www.ohchr.org/inclusion-and-the-right-to-partiipate-in-public-life Accessed 15 March 2019.

2.8. Accountability: The accountability mechanism, in particular, should take more account of human rights standards, human rights methods of monitoring and evaluation, redress and sanction where needed. In the words of Ban Ki-moon[69]:

> "Shortfalls have occurred not because the goals are unreachable or because time is too short. We are off course because of unmet commitments, inadequate resources and a lack of focus and accountability"

In light of the above quote, one of the main issues that led to the Millennium Development Goals (MDGs) failure has been the ad hoc and voluntary character of their information disclosure, monitoring, and reporting mechanism. A human rights-based approach to development provides an opportunity for" marginalised and poorer groups" in Nigeria, particularly in the North, by promoting accountability and ensuring that the "marginalised and poorer are in a position to "enforce their rights" and "seek redress" when their rights are violated. The lack of development progress in the North constitutes a violation of human rights standards. Those affected have the opportunity to present their claim before national and international human rights mechanisms. States are primarily accountable under international human rights law to respect and protect the rights of those within their jurisdiction, as discussed above. The lack of political will, lack of domestic policy coherence, and other social contracts are a wide range of factors responsible for weakness in state actors' accountability and decentralisation of responsibilities for service delivery without "adequate" resources safeguards.

The lack of political The United Nations Millennium Declaration states that:

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[69] See United Nations, "Unmet commitments, inadequate resources, lack of accountability hampering achievement of Millennium Development Goals, says Secretary-General", press release SG/SM/12789, 16 March 2010.

"We recognise that, in addition to our separate responsibilities to our individual societies, we have a collective responsibility to uphold the principles of human dignity, equality and equity at the global level. As leaders we have a duty therefore to all the world"s people, especially the most vulnerable and, in particular, the children of the world, to whom the future belongs"[70]

According to Maastricht Guidelines[71] States actors at the national level have:

"... A duty to respect, protect and fulfil human rights, and provide effective Remedies when they are infringed. These duties require States to take legislative, administrative, judicial, fiscal and other measures to create conditions in which people under their effective control can realise their rights, including their economic, social and cultural rights."

Finally, accountability from a human rights-based approach has a corrective function, making it possible to address development challenges in Nigeria and also has a preventing function because it helps to determine which aspect of policy or service delivery are working, and then improve on it and the same time examine which aspects need to be adjusted.

2.9. The Rule of Law: The principle of the rule of law includes resolution of competing claims and access to justice that ensures that no one is above the law, and that there will be no impunity for human rights violations. According to the United Nations (UN) Secretary-General[72], the rule of law is defined as:

"The vehicle for the promotion and protection of the common normative framework it provides a structure through which the exercise of power is subjected to agreed rules, guaranteeing the protection of all human rights. It requires that legal processes

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[70] See General Assembly resolution 55/2, para. 2.
[71] See Maastricht Guidelines on Violations of Economic, Social and Cultural Rights (Maastricht, Netherlands, 22-26 January 1997).
[72] See the United Nations Secretary-General comment United Nations and the Rule of Law: Towards a just, secure and peaceful world, governed by the rule of law.

institutions and substantive norms are consistent with human rights, including the core principles of equality under the law, accountability before the law and fairness in the protection and vindication of rights" (S/2004/616, para.6)

In anchoring economic, social, and cultural rights in national constitutions, law and regulations, the rule of law played an integral part where such rights are justifiable or their legal protection is otherwise ensured. Thus, it provides a means by which right-holder can claim their rights. The rule of law must be anchored in a national context, while universally agreed human rights, norms, and standards provide its normative foundation, including its culture, history, and politics. The law protects individuals' rights in Nigeria in such a way that any dispute about them is done through the adjudication by competent, impartial, and independent process and not to be resolved through the exercise of some arbitrary discretion. In addressing the development challenges in Nigeria, the country needs to adopt a human rights-based approach to development that will improve the rule of law at the level of daily life in North and South Nigeria. It is important to note that having laws and policy that conforms to human rights standard is one thing and implementing it is another. In other words, if power, money, and influence play a more significant role and if there is a lack of control of and redress for the less privileged in the country and large abuses of power, instances of corruption. The next section of this chapter will examine the concept of Right-Holders and Duty-Bearer to further answer the research question: To what extent are human rights-based approaches relevant to achieving the Sustainable Development Goals in Nigeria?

2.10. THE CONCEPT OF RIGHT-HOLDERS AND DUTY-BEARERS

2.11.   The Duty-Bearers: The question of who has an obligation to whom and how is answered in each of the core human rights treaties in a general provision placed at the beginning of the text. ECHR, Article 1 is particularly concise, stipulating that the contracting parties must secure the rights and freedom defined in the Convention „to everyone within their jurisdiction". Similarly, ICCPR, Article 2(1), requires each state party to respect and to ensure to all individuals within its territory and subject to its jurisdiction the recognised in the present Covenant without distinction of any kind[73]". According to ICESCR, Article 2(1), "each state party must" take steps individually and through international assistance and cooperation, especially economic and technical, to the maximum of its available resources, to achieve progressively the full of the rights recognised in the present Covenant by all appropriate means, including particularly the adoption of legislative measures"". It follows that responsibility for fulfilling the obligations arising from human rights treaties lies with states and state agents. Human rights treaties make this quite clear by consistently imposing obligations on states parties, contracting parties, or high contracting parties[74]. According to UNICEF[75] duty-bearers are:

> "... those actors who have a particular obligation or responsibility
> to respect, promote, and realise human rights and to abstain from
> human rights violations. The term is most commonly used to refers
> to state actors, but non-state actors can also be considered duty-
> bearers."

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[73]Kalin.W. and Kunzli. J (2009) "The law of International Human Rights Protection: Oxford University Press.New York

[74] See for example ICESCR, Article 2; ICCPR, Article 2; CRC, Article 2; CCPCG, Article 1; ECHR, Article1.

[75] See www.unicef.org.

Article 2(1), UNDRD and Article[76] 2(2), UNDRD states that "the individual has duties as a singular participant and collectively as a member of a community to promote and protect an appropriate political, social and economic order for development". Nigeria as a nation state, therefore, does have the primary duty to ensure the realisation of the right to development of all the citizens in North and South. In achieving objectives relating to the development of communities in North and South Nigeria, non-governmental organisation (NGOs) are also important actors in addressing development challenges[77].

2.12.   The Right-Holders: Individuals are rights-holders from a human rights perspective, and states and other actors are duty-bearers responsible and can be accountable for their acts or omissions. According to Sitta[78] "a person can be said to have a right when he is entitled to claim respect and adherence to a specific things, such as the rights to education, health, water, with the other persons having a duty to respect and fulfil that right". Who is entitled to make claims and who has a duty to take action can be seen in terms of rights and obligations vis-à-vis empowering those who have legitimate claims to rights. All human rights can be effectively protected at a basic level through a lack of state interference in their enjoyment. This gives rise to the obligation to respect. From the point of view of rights holders, this obligation entails a corresponding right to be let alone vis-à-vis the state. The second category of obligations is the obligation to protect. States have positive human rights obligations to protect interests safeguarded under human rights law from threats emanating, in particular, from breaches by third parties, but also threats emanating from natural or human-made risks. In practice, this involves, for the most part, ensuring that the relevant

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[76]Article 2(1), UNDRD, Article 2(2), UNDRD.

[77]Omomfonmwan. S. I. and Odia. L.O (2009)" The Role of Non-Government Organisation in Community Development: Focus on Edo State-Nigeria 11 Anthropology, 247, 250.

[78]Sitta. A. (2006)" The Role of the Right to Development in the Human Rights Framework for Development". Available at www.capabilityapproach.com/pubs/5_1_sitta.pdf.Accessed 30 July 2019.

human rights guarantees are also enforced in relations between private actors[79] but also vis-à-vis state agents acting ultra vires or agents of third states[80]. The third level of obligation is the obligation to fulfil. The states are required to fulfil human rights to ensure that they are realised in practice as comprehensively as possible. In some circumstances, this may call for the adoption of wide-ranging legislative or administrative measures to establish the legal, institutional and procedural basis for the full realisation of the right concerned. Sometimes a right[81] can only be fully enjoyed by an individual if the state provides certain benefits in the form of money, good for example food, or services (e.g. medical care, basic education, or free interpretation services in criminal proceedings). Article[82] 2(3) states that "states also have the right to formulate national development policies which will benefit individuals in the society".

This thesis will also evaluate some key features or characteristics that illustrate the relevance of a human rights-based approach in achieving the Sustainable Development Goals (SDGs) in Nigeria. One of the most essential or vital aspects of a human rights-based approach relevant to the implementation of the Sustainable Development Goals (SDGs) in Nigeria is the adoption of the concept of rights. In other words, development efforts are not regarded as a form of "arms giving enterprise or charity "by right based development thinkers or commentators but as part of efforts to fulfil rights. In Nigeria, donors such as the World Bank, UNICEF, the IMF, and UNDP support duty-bearer efforts under a human rights-based approach to fulfil their human rights obligations. The realisation of the rights entitlements of the recipient (citizens) in North and South Nigeria is made possible due to the development assistant by the donors' agencies. A human rights-based approach also helps address Nigeria's development challenges by supporting the rights-holders in claiming their rights. Where

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[79]HRCttee, General Comment No 31 (2004), para 8.
[80] See for example ECtHR (Grand Chamber), Makaratzis v Greece, Reports 2004-XI, para 56. ff.
[81] See HRCttee, General Comments No 31 (2004), para 7.
[82] See Article 2(3), UNDRD

Nigeria adopts a human rights-based approach instead of" needs", "service" or a "traditional "development assistance approach in addressing the country's development challenges, recipients are transformed conceptually and transformed from passive alms to active rights-holders.

A human rights-based approach is relevant in implementing the Sustainable Development Goals (SDGs) in Nigeria because the citizens have rights and the duty-bearer an obligation to fulfil as stipulated in the Nigeria constitution as amended. In other words, the citizens who have right must be able to assert these rights such as quality education (SDG4), good health and well-being (SDG3), clean water and sanitation (SDG 6), and reduced inequality (SDG 10) against the state that has an obligation to fulfil these rights. A human rights-based approach to development allows the citizens to invoke their rights against Nigeria, a sufficiently well-functioning state. In a situation where the duty-bearer is principally a private entity or persons regarding certain rights, for example, the right to a" healthy environment," a human rights-based approach provides the avenue for the right-holders to enforced these rights against the duty-bearer through public authorities. For example, police, court, and political representatives at the three tiers of government in Nigeria that can enforce this rights. A human rights-based approach to development will be a precondition for implementing the Sustainable Development Goals (SDGs 3 and 4) to address Nigeria"s development challenges.

When adopting a human rights-based approach to development in the implementation of the Sustainable Development Goals (SDGs 3 and 4) in Nigeria, activism and advocacy are two essential components that need to be considered. According to Danida, advocacy in the context of a human rights-based approach is defined as "targeted measures in respect of fundamental human rights which influence decision-makers and citizens at local, regional, national and international levels, and which seek to form and guide political, economic,

cultural and social processes and decisions to improve the living conditions of the relevant groups of the population[83]". According to Baxi[84] human rights activism "is a body that works with the raw materials of human suffering arising from the denial of dignity, equal worth, and concern for all human beings. Its transformative practices combat human rightlessness at myriad institutional sites and with divergent ideological orientations". Activism and advocacy are essential components of a human rights-based approach to development. It follows the principles of participation and inclusion central to implementing the Sustainable Development Goals in Nigeria. According to Molyneux and Lazar[85], for participation and inclusion to be effective, "it is important to strengthen the capacity for autonomous action". This will help address Nigeria's development challenges, particularly in health, education, and women and girls' empowerment.

The relevance of a human rights-based approach in the implementation of the Sustainable Development Goals (SDGs 3 and 4) in Nigeria can also be seen based on the premise that discrimination and inequality are key factors responsible for poverty in the country. Adopting a human rights-based approach will help address the issue of poverty, which is one of Nigeria's development challenges caused by discrimination and inequality. This approach will target the less-privileged or poorest in Nigeria to leave no one behind, which is one of the central pillars of the Sustainable Development Goals (SDGs). At the centre of the 2030 Development Agenda for Sustainable Development lies the commitments to 'leave no one

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[83] Danida General Principles Governing Support to Development Activities Implement by Danish Civil Society Organisation {Copenhagen: Ministry of Foreign Affairs, 2014} Available at www.amgum.dk/en/technical-guidelines/financial-management/accounting-and-auditing Accessed 31 July 2019.
[84] Baxi. U. (2012)" The Future of Human Rights: the practice of Contemporary Human rights Activism" DOI:10.1093/acprof:oso/9780195690439.003.0003.
[85] See Molyneux. M. and Lazar. S. (2003)" Doing the Rights Thing-Rights-based Development and Latin American NGOs. London: ITDG Publishing. 27". See also, Sano. H.O. (2000)" Development and Human Rights: The Necessary, but partial Integration of Human Rights and Development", Human Rights Quarterly 22: 734-75, 749.

behind' and to 'achieve gender equality, and they are intrinsically linked to the human rights principles of equality and non-discrimination[86].

Adopting a human rights-based approach to development in addressing Nigeria"s development challenges envisage a world that would be „just equitable, tolerant, open and socially inclusive that addresses the needs of the most vulnerable or the poorest are met" a world in „which every woman and girl enjoy full gender equality and all legal. Social and economic barriers to their empowerment have been removed. According to Kercher[87], adopting a human rights-based approach in addressing Nigeria"s development challenges emphasised "the responsibility of the States, in conformity with the Charter of the United Nations, to respect, protect and promote human rights and fundamental freedoms for all, without distinction of any kind as to race, colour, sex, language, religion, political or other opinions, national or social origin, property, birth, disability or other status" According to the President of the Human Rights Council:

> "There is a strong convergence between the 2030 Agenda"s approach to ensuring that no one is left behind and the human rights-based approach to addressing inequality and discrimination among and within countries…Like international human rights law, the 2030 Agenda calls for formal and substantive equality of opportunities and outcomes for people who are vulnerable and must be empowered"[88]

In light of the preceding, the achievement of full human capital development and sustainable development is not visible if the North continues to be denied full human rights and opportunities. Adopting a human rights-based approach in addressing Nigeria's development

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[86] See Report of the UN Secretary-General on the Question of the Realisation in all Countries of Economic Social and Cultural Rights, Supra fn 56 ss 15-10.
[87] Kercher. J. "The Sustainable Development Goals (SDGs)-Contributions of the UN Human Rights Council to the Debate so far cited in Friedrich Ebert Stiftung (FES) 2015. PP.1-4
[88] See the work of the Human Rights Council in Relation to the 2030 Agenda for Sustainable Development, the input from the President of the Human Rights Council to the 2016 HLPF

challenges will help in realising gender equality and the empowerment of women, girls, and the Almajiris in terms of equal access to (SDG3). This will ensure healthy lives and promote well-being for all ages (SDG4), ensuring inclusive and equitable quality education and promoting lifelong learning opportunities for all. Equal opportunity in terms of economic resources and political participation as well as equal opportunities with men and boys for employment, leadership, and decision-making at all levels[89]. The next section of this chapter will examine the African regional human rights system, the African Charter on Human and Peoples Rights, and its relevance in addressing Nigeria"s development challenges.

2.13.   The African Regional Human Rights System

> "The concept of human rights does not operate in an anarchistic framework it recognises a general obligation to obey the law. But where the line is crossed and human rights violations are at stake, the duty to obey the law is at some point considered to have broken down" (Heyns[90], 2006)

> "With the attainment of self-determination and independence, it would be ironic indeed if the freedom gained from the defeat of colonialism should be denied our people by our own leaders. After centuries of a deliberate policy of dehumanisation, subjugation, and oppression, the minimum our people expect and must have is the full enjoyment of their political, economic, social and cultural rights… It should be the duty of all of us...ensure that the people enjoy… their civil and political rights" (President Jawara[91], 1978)

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[89] See Golay. C, Bigina. I and Truscan. I (2012)" The Contribution of the UN Special Procedure to the Human Rights and Development Dialogue, 17 SUR-International Journal of Human Rights.

[90]Heyns. A. (2006)" Struggle Approach to Human Rights in Heyns and Stefiszyn" edn, Human Rights, Peace and Justice in Africa: A Reader (Pretoria University Law Press) 15.

[91] See Alhaji Sir Dawda Kairaba Jawara, Statement at the 33rd session of the UN General Assembly, 22 September 1978, quoted in Touray, The Gambia and the World-A History of the Foreign Policy of Africa"s smallest states 1965-1995.

Today's African continent is characterised, inter alia, by the coexistence of traditional and modern strands of society. As is the case in traditional societies across the world, recognizing values such as human dignity, a prohibition of harm to others, and benevolent governance ideals may be found in many African societies. These same norms also underlie much of the modern notion of human rights[92]. However, the modern or full notion of human rights differs from the traditional notion, as stated earlier in this chapter (3). The idea of enforcement of these norms is typically absent not well developed in traditional societies... While there is increasing recognition of human rights in Africa and Nigeria in the strong sense of the world, the continent still faces a myriad of challenges to the realisation of its citizens' human rights. This is despite the widespread formal commitment to human rights across the continent in the form of a bill of rights, establishment of national human rights institutions, declaration by intergovernmental organisations, and the establishment of a regional human rights system[93].

There are arrays of scholarly works on the subject of human rights in Africa and Nigeria, ranging from philosophical, moral and historical to the legal, ethical and normative[94]. The ubiquitous scepticism about the efficacy of human rights and the historical dimensions of human rights in Africa are at variance with the essence of this thesis discourse. The adoption of a human rights-based approach and the central dialectic of developing more substantial economic, social, and cultural rights across the African continent to address the development challenges in Africa and Nigeria, thereby positively impacting the vulnerable and ordinary African. The next sections of this thesis will examine the Africa Charter on human and people's rights and other relevant treaties.

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[92]Moeckli.D, Shah. S., and Sivakumaran. S. (2010) International Human Rights Law: Oxford University Press.
[93] Ibid
[94]Shivji. I. G. (1989)" The concept of human rights in Africa describing how human rights scholarship on Africa has continued to revoke around such questions as universalism, theorisation, and prioritisation of human rights" 10-30.

2.14. The Africa[95]/Banjul Charter on Human and Peoples Rights and other Relevant Treaties

The Charter contains a wide range of rights, including in addition to the traditional Civil and Political Rights, Economic, Social and Cultural Rights, and various peoples' rights. The African Charter on Human and Peoples Rights (ACHPR) goes further than the primary regional human rights conventions of Europe and the Americas in recognising civil and political rights and economic, social, and cultural rights and not only individual rights but also people's rights. The Charter also provides for duties. The inclusion in the ACHPR of socio-economic rights alongside civil and political rights emphasises human rights' indivisibility and the importance of developmental issues, which are essential matters in the African context. At the same time, a modest number of socio-economic rights are explicitly included in the Charter. Article 15 states that "every individual shall have the right to work under equitable and satisfactory conditions, and shall receive equal pay for equal work[96]" Article 16(1) states that "Every individual shall have the right to enjoy the best attainable state of physical and mental health[97]" Article 16(2) states that "States parties to the present Charter shall take the necessary measures to protect the health of their people and to ensure

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[95] See U.O. Umozurike, The African Charter on Human and People"s Rights, The Haque, 1997: R. Murray, The African Commission on Human and Peoples"s Rights, London, 2000; The African Charter on Human and Peoples" Rights (eds.M. Evans and R. Murray), Cambridge, 2002; Rehman, International Human Rights, p.1062; E. Ankumah, The African Commission on Human and Peoples Rights, Dordrecht, 1996; R. Gittleman,"The African Charter on Human and Peoples Rights: A Legal Analysis," 22 Va. Jil, 1981, p.667; Robertson and Merrills, Human Rights in the World, p.242; U.O.Umozurike,"The protection of Human Rights under the Banjul (African) Charter on Human and peoples" Rights," I. African Journal of International Law, 1988, p.65; A. Bello, „The African Charter on Human and Peoples Rights," 194 HR, 1985, P.5; S. Neff,"Human Rights in Africa," 33 ICLQ, 1984, P. 331; U.O. Umozurike,"The African Charter on Human and Peoples Rights," 77 AJIL, 1983, P. 902; B. Ramcharan," The Travaux Preparation of the African Commission on Human Rights,"HRLJ, 1992, P.307; W. Benedek,"The African Charter and Commission on Human and Peoples Rights: How to make it more effective," 14 NQHR, 1993, P.25;C.Flinterman and E. Ankumeh,"The African Charter on Human and Peoples Rights in Hannum, Guide to International Human Rights Practice, p. 171; M. A. Baderin,"Recent Development in the African Regional Human Rights System," 5 Human Rights Law Review, 2005, p. 117, and C. Beyani,"Recent Development in the African Human Rights System 2004-2006," 7 Human Rights law Review, 2007, p.582. See also F.Ouguergouz,"La Commission Africaine des Droits de I"Homme et des Peuples," ARDI, 1989, P.557; k. Mbaye. Les DroitsdeI" HommeenAfrique, Paris, 1992, and M. Hamalengwa, C. Flinterman and E. Dankwa, The International Law of Human Rights in Africa-Basic Documents and Annotated Bibliography, Dordrecht, 1988.
[96] See Article 15 of the African Charter on Human and Peoples Rights
[97] See Article 16(1) and (2) 0f the African Charter on Human and Peoples Rights

that they receive medical attention when they are sick". Article 17(1) state that "Every individual shall have the right to education[98]". Among rights not explicitly included are the rights to food, water, social security, and housing. The last section of this chapter will examine article 22 (1) and article 22(2) of the African Charter on Human and Peoples Rights.

2.15. ARTICLE22 OF THE AFRICAN CHARTER ON HUMAN AND PEOPLES RIGHTS

Article 22(1) states that "All peoples shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind[99]". Article 22(2) states that "States shall have the duty, individually or collectively, to ensure the exercise of the right to development[100]". Article 22[101] and other documents that recognise and articulate that right are hardly clear as to the identity of their preferred development conceptions or models, even though the character of the particular conception or model of development that is adopted (neoliberal or social democratic) is key to the success or failure of the effort to secure the enjoyment of the right to development[102]. Articles 22 inform our understanding of the meaning of development by providing certain conceptual guideposts. For example, according to Banda[103], "that development should no longer be conceived primarily in terms of economic growth", according to World Bank[104] "that development at its core involves the fostering of equity within and among States" according to Udombana[105], "that gender interest must be

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[98] See Article 17(1) of the African Charter on Human and Peoples Rights.
[99] Ouguergouz, F. The African Charter on Human and Peoples Rights
[100] Ibid
[101] Ouguergouz. F. The Africa Charter, p. 307
[102] Banda.F. (2005) "Women, Law and Human Rights: An African Perspective" (Oxford, Hart) pp.263-264.
[103] Ibid
[104] See World Bank, World Development Report (2005)" A Better Investment Climate for Everyone (New York and Washington, Oxford University Press, 2005), p. 7 and Simeon Ilesanmi, Leave no poor behind: globalisation and the imperative" Journal of Religious Ethics, vol.32, No. 1 (2004), P. 72.
[105] Udombana.N. (2000)," The third word and the right to development: an agenda for the millennium", Human Rights Quarterly, Vol. 22, No.3. (August 2000), p. 767, and Banda, Woman, Law and Human Rights, pp. 265 and 269-285.

mainstreamed into the development design and practice" that "participatory development is to be much favoured over the top-down model[106]" and most importantly that the adoption of a human rights-based approach is necessary in addressing Development Challenges in Africa and Nigeria. Also, the socio-economic rights in the ACHPR have generally received scant attention from the African Commission, but in its 2001 decision in SERAC v Nigeria the Commission dealt extensively with the issue[107].

In this case, which dealt with gross human rights violations in the oil-rich Ogoniland region of Nigeria, the African Commission deduced an implicit right to 'housing or shelter' in the ACHPR from health provisions, property, and family life in the Charter. Similarly, a right to food was also read into the right to dignity. In SERAC v Nigeria discussed above, the African Commission found the Nigeria government guilty of violating Article 21 ACHPR by giving' the green light to private actors, and the oil companies in particular, to devastating affect the well-being of the Ogonis"[108]. The next chapter will focus on the literature review.

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[106] See A/48/935, para.220
[107] See 155/96, 15th Activity Report of the AComm HPR (2001-2002)
[108] See SERAC, n 13, para 58

3.1. Understanding Human Rights, Human Capital Developing and the SDGs

> "Different historical contexts have generated different pre-occupations; different pre-occupations have generated different emphasis" Finer[109]

This chapter will examine the concept of Human Rights, Human Capital Development, and Sustainable Development Goals (SDG 3 and SDG 4) by looking at the known and the unknown, thus identifying a knowledge gap. It will also evaluate the relationship or link between the concepts mentioned earlier as multi-dimensional and inter-related concepts. In other words, it seeks to demonstrate that, Human rights, Human Capital Development, and Sustainable Development are inter-related, mutually reinforcing, interdependent and indispensable in a bid to address Nigeria's development challenges, particularly in the North when compared to the South in terms of differential development outcome. Undoubtedly, some research has been conducted in the last decade, which is very useful in this study. For instance, Campbell[110] argued that for Nigeria to experience or enjoy development, there is the need to evaluate Nigeria"s North-South distinction. In support of the above statement, Hoffmann[111] in his research paper titled "who speaks for the North? Political and Influence in Northern Nigeria argued that for any meaningful development in the entire country as a result of good governance involves constant measurement of the quality of governance using selected indicators as a yardstick. Further, as a composite phenomenon, development defies a single and linear conceptual clarification because it is a many-sided concept. Todaro argued that "Development should therefore be perceived as a multi-dimensional process involving

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[109] See Finer, SE. (1079) Five Constitutions, (Sussex, Harvest Press)22
[110] Campbell, J. (2011), "Why Nigeria"s North-South Distinction is Important" Council on Foreign Relations. Africa Policy Studies.
[111] Hoffmann, K. L (2014), "Who Speaks for the North? Political and Influence in Northern Nigeria". Chatham House: The Royal Institute of International Affairs.

the re-organisation and re-orientation of the entire economic and social system. In addition to improvements in incomes and output, it typically involves a radical change in institutional, social and administrative structure as well as in popular attitudes and in many cases, even customs and beliefs". Norton and Alwang[112] states that the term development encompasses "not only a growth component but distributional components both for the current population and for the future generation irrespective of ethnic or religious background".

Further, other previous studies evaluate the need to compare the level of Health and Education that is Human Capital Development, which is essential to compare the quality of governance between north and south Nigeria. The term human capital, a concept used to express the contribution of differentiated human capacities and skills, was invented by Theodore Schulz (1961). Other ancient and contemporary human resources development and social capital development thinkers[113] argued that human capital development plays a vital role in the overall development of a nation-state by improving people's overall living conditions. A lack of investment in human capital development (education and health) has led to underdevelopment in the north when compared to the south. Becker[114]opined that "general education creates general human capital while technical, and vocational education provides specific human capital development". He argued further that for a country to achieve development in terms of economic growth, manpower, planning, development, and the creation of employment to bridge the gap between north and south based on the principle of good governance involves paying serious attention to education and health. However, in light

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[112] Norton, G.W. and Alwang, J. (1993). Introduction to Economics of Agricultural Development. New York: McGraw. Hill. Inc.

[113] Schultz, T.W. (1993) Origin of Increasing Return. Oxford Blackwell; Schumpeter, J. A. (1942) Capitalism, Socialism and Democracy. Harper (Reprinted by Harper Coloplion, 1975); Becker, G. S. (1993{1964}). Human Capital: A Theoretical and Empirical Analysis, with Special Reference to Education (3rd edition): Chicago, University of Chicago Press; Bell, M. and Pavit, K (1993), "The Development of Technological Capabilities" in Hagues, I.U (editor), Trade Technology and International Competitiveness. Washington DC. The World Bank; Hanushek, E. and Kym, D. (2005), "Sunday Labour Forces Quality and Economic Growth". NBER Working Paper 5399 MA: Cambridge.

of the previous studies stated above, to the best of the authors' knowledge, none has systematically articulated and presented a detailed analysis of the nature and relevance of human rights and human capital development/ investment in the implementation of SDGs 3 and 4 in the North and South Nigeria. This present study aims at filling the gaps in the existing literature.

According to Kamaludden and Babashola[115], they observed that for a long time, industrialised nations of the world have demonstrated "a preference for keeping issues pertaining to human rights distinct from those of development". Other commentators argued that to address development challenges, human rights and human capital development must go hand in hand to achieve development outcomes. Rattray[116] in her article, Human rights and the SDGs-two sides of the same coin opined that "over 90 percent of the goals and targets of the SDGs correspond to human rights obligations and that as member states make progress on the SDGs, they make progress on their human rights obligations". The use of human rights and human capital development/investment as strategic tools in the implementation of sustainable human capital development objectives is based on the normative and conceptual links between human rights and sustainable human development, which has been identified in subsequent UN Conferences[117]. The link between human rights and human development has also been identified in the United Nation (UN) "Human Development Reports[118] of 1994, 2000 and 2002". Aduba,[119] has pointed out that human rights are rights possessed by all persons under their common humanity to live a life of freedom and dignity. They are inalienable; they can neither be taken away nor given up. They are indivisible, there is no

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[115] Kamaludden, K. Oladipo, E. and Chinsman, B. (1998), "Conceptual Issues in Human Development and Human Rights-Interdependence and Interrelationship among Civil, Political, Social, Economic and Cultural domains".

[116] Rattray, S. (2019), "Human rights and the SDGs-two sides of the same coin".UNDP Policy Statement.

[117] See The World Summit for Social Development report (1995)

[118] This reports "evaluate how human rights ensures the principles of accountability and social justice to the process of human development".

[119] Aduba, J. N, "Inquiries on Human Rights Practice in Nigeria Past, Present and Future" being an Inaugural Lecture delivered the   University of Jos Inaugural lecture series, 54 on 29th June, 2012. P. 8.

hierarchy among rights, and no right can be suppressed to promote another right.[120] Bhagwati[121] opined that "The language of human rights carries great rhetorical force of uncertain practical significance. At the level of rhetoric, human rights have an image which is both morally compelling and attractively uncompromising. What is necessary is that the highly general statements of universality, inalienability and indefeasibility should be transformed into more particular formulations, if the rhetoric of human rights is to have major impact on the resolution of social and economic problems in a country". According to Adejumobi and Momoh,[122] the genesis or development of human rights as a concept can be traced back to the Magna Cater of 1215, the Revolution of 1640 and 1660, the Parliamentary rights of 1960 led by Tom Wilkes, the American War of Independence, the Atlantic Charter, and the Universal Declaration of Human Rights. They argued that "the concept of human rights…derives from a sense of the individual and the recognition of the need for individual freedom that is defined at least in the formal sense. On that basis also, the historical study of the concept of Human Rights presumably follows the Western Liberties upsurge and practices. The idea that human rights with its universal application as entrenched in the United Nations Charter is riddled in the Euro centricity of its prescription and application and equally western in origin, is a major source of contradiction." Further, according to Gauri and Gloppen[123], Human Rights-Based Approaches to Development is defined as "principles that justify demand against privileged actors, made by the poor or those speaking on their behalf, for using national and international resources and rules to protect the crucial human interests

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[120] A similar position was given by B.O Nwabueze, The Presidential Constitution of Nigeria (sweet & Maxwell) pg 411

[121] Bhagwati, P.N. (1998) The Inaugural Address, in Developing Human Rights Jurisprudence: The Domestic Application of International Human Rights Norms XX, XX (1998).

[122] Adejumobi, S. and Momoh, A. (1999), The Nigeria Military and the Crisis of Democratic Transition: A Story in the Monopoly of Power, C.L.O. Lagos, pp.5.

[123] See Gauri. V. and Gloppen Sirl (2012) Human Rights-Based Approaches to Development: Concepts, Evidence, and Policy. Available at www.researchgate

of the globally or locally disadvantaged". United Nation Sustainable Development Group[124] (UNSDG) defined Human Rights as "a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights. It seeks to analyse inequalities which lie at the heart of development problems and redress discriminatory practices and unjust distributions of power that impede development progress and often result in groups of people being left behind". In other words, "policies, plan, and processes of development are in a system of rights and corresponding obligation" established by international law under the human rights-based approach and this includes the first and second generation rights. The first generation rights include all civil and political rights and the second generation rights include economic, social, and cultural rights. According to Schmitz[125], Human Rights-Based Approaches focus on the root causes of poverty and promise greater alignment of development efforts with universal norms, however, he argued that there is little systematic evidence about the actual impact of this strategic shift even though it has been widely adopted across the development sector. Mubangizi[126] opined that adopting a human rights-based approach to development is imperative and critical in Nigeria and Africa and that the link between human rights and development is undeniable with regards to the international human rights treaty. Darrow and Thomas[127] states that "a rights-based approach treats development issues as matters of obligation and right, rather than discretion or charity. It focuses on raising levels of accountability in the development process by identifying claim-holders (and their entitlements) and corresponding duty-bearers (and

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[124] See United Nations Sustainable Development Group (UNSDG). Available at www.unsdg.un.org Accessed 10 November 2019

[125] Schmitz.H.P. (2012) A Human Rights-Based Approach (HRBA) in Practice: Evaluating NGO Development Efforts. Available at www.researchgate.net/publication/228160942_A_Human_Rights-based_Aprroach_HRBA_in_Practice_Evaluating_NGO_Development_Efforts.Accessed 22 April 2019.

[126] Mubangizi.J.c. (2017) A Human Rights-Based Approach to Development in Africa: Opportunities and Challenges. Pp 67-76.

[127] Darrow. M. and Thomas (2005): "Power, Capture and Conflict: A call for Human Rights Accountability in Development Cooperation" in Human Rights Quarterly, Volume 27, Number2, pp. 471-538

their obligations)". Also, without including development, discussions on the human rights-based approach seem impossible. In the process of examining human rights-based approach, researchers have frequently mentioned development[128] and Sano[129], in agreement with Uvin, opined that merging human rights and development can be traced to the 1990s. He argued further that development existed within the framework of human rights, although the discipline of development was not based on rights[130]. Further, any nation that desires guaranteed economic vitality and self-sufficiency, high-quality human development indices, social well-being, and qualitative life for its citizens must of necessity place a high premium on human capital development. Underachievement in human capital development results in the inability of the nation to adequately access and effectively appropriates its human and other resources to meet national objects according to Anya[131]. Poor human capital development significantly impedes optimisation of available potentials and opportunities to improve society and enhance citizens' quality of life. Chronic development challenges with its attendant negative symptoms: hunger, poverty, disease, brain-drain, capital flight, huge debts, and political instability are consequences of the paucity of human capital. Poor human capital leads to and perpetuates under development and is in itself entrenched by continued underdevelopment. It is imperative to note that we now live in a world of incredible breakthroughs in Information and Communication Technology (1CT) and advancements in science and technology. The information age in high society is now, more than ever before, knowledge dependent and driven. The production of goods and services, and their provision, require less material and less labour. Much value is added in the production process through human capital. There is now clearly higher comparative and competitive advantages in the possession of human capital than in mineral assets or in natural resources realise the human

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[128] Uvin. P. (2007)," Development in Practice" 597-606
[129] Sano. H. (2000)," Human Rights" Quarterly 734-752
[130] Ibid
[131] Anya, O. A. (2011),"Nigeria: The Human Capital Challenges" cited in Ikokwu, C.C. (2011)," Haif a Century Progress Challenges": First edition:Nigeria.

rights of all.[132]" The 17 SDGs directly or indirectly reflect human rights standards. In other words, the 2030 Agenda and human rights are interwoven and inextricably tied together.[133] According to Sen,[134] the 2030 Agenda for Sustainable Development strongly reflects vital human rights principles and standards by encompassing civil and political rights and development rights issues. According to the World Bank Report, (2018), the SDG implementation strategy within the framework of "leaving no one behind" will need to continue and more fully embrace a data revolution through a human rights-based approach to data collection, production, analysis, and dissemination in order to clearly reveal the current state of disadvantage and vulnerability of many affected groups usually left behind. In light of the above, Zakus[135], opined that the SDGs' monitoring and evaluation strategies must reduce inequalities and create equity at all levels, including the individual, family, and community, local, national, regional, and international. Further, any nation that desires guaranteed economic vitality and self-sufficiency, high-quality human development indices, social well-being, and qualitative life for its citizens must of necessity place a high premium on human capital development. Underachievement in human capital development results in the inability of the nation to adequately access and effectively appropriates its human and other resources to meet national objects according to Anya[136]. Also, The process of development should include equality and non-discrimination, which are "human rights principles; opportunity for individuals to take an active part in activities and decisions as it affects their lives and the empowerment of people; accountability of the duty bearer to promote, protect, and fulfil human rights; indivisibility and interdependence of all human

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[132] A/RES/70/1: http://undocs.org/A/RES/70/1
[133]   OHCHR,   2015,   Human   Rights   in   the   2030   Agenda   for   Sustainable   Development: http://www.ohchr.org/Documents/Issues/MDGs/ Post2015/HRAndPost2015.pdf
[134] Sen A, „Development as Freedom (2nd ed). Oxford/New York(Oxford University Press 2001)
[135] Zakus D,'The Sustainable Development Goals as Human Rights (2019) Available at www.researchgate.net/publication/332284647 Accessed 3 January 2012
[136]Anya,O.A. (2011),"Nigeria: The Human Capital Challenges" cited in Ikokwu, C.C. (2011)," Haif a Century Progress Challenges": First edition:Nigeria.

rights; international human rights norms and standards according to Sakiko[137] should be "applied in the development process and governments are accountable for their obligations arising from their commitment to international laws to which they are signatory". It is important to note that the above stated key elements are "consistent with the priorities of the human development and capability approach to development". Poor human capital development significantly impedes optimisation of available potentials. Finally, according to Uvin[138], human rights and development are "conceptually and operationally inseparable parts of the same process of social change". Finally, the following are the summary of need gaps in the literature:

- Previous works of literature failed to examine or focus on inequality, which lies at the heart of the development process and, most importantly, the need to adopt a human rights-based approach to address the systemic inequality between the North and South Nigeria of human capital development.

- Most of the literature examined on development challenges in Nigeria evaluated the linkages between human rights and development but failed to established or argued the need for an inclusive and participatory society to ensure policy coherence between the SDGs and the existing human rights framework.

- Most of the previous literature examined in this thesis adopted the Modernisation theory of the 1960s to address Nigeria's development challenges with limited successes. The Modernisation theory is not framed in the language of rights.

- Another significant difference between this study and previous literature is that the earlier works of literature have examined development challenges in terms of economic growth by adopting different development approaches such as Need-based

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[137] Sakiko, Fukuda-Parr. (2007)," Human Rights and Human Development" the Human Rights Institute: Economic Rights Working Paper Series. University of Connecticut. Working paper 4.
[138] Uvin. P (2004)," Human Rights and Development" Kumarian Press, Bloomfield

approach or service delivery approach, capability approach, and market-based approach in a bid to address Nigeria development challenges with limited successes.

- Most of the previous literatures evaluated also focused on underdevelopment and its impact of poverty eradication without paying attention to the relevance of human capital development SDGs 3 and 4.

The next section will examine the theoretical and conceptual analysis of sustainable development goals, human capital, human capital development, and human rights.

3.2. THEORETICAL AND CONCEPTUAL FRAMEWORK ON HUMAN RIGHTS, HUMAN CAPITAL DEVELOPMENT AND (SDGS)

Human rights, human capital development, and sustainable development goals (SDGs 3 and 4) are interrelated, inter-dependent, and indivisible. When objectively applied, human rights norms provide a framework for equality and non-discrimination, which ensures that human capital development benefits are also enjoyed even by the most marginalised or vulnerable group in Nigeria, particularly among women, girls, and the Almajiris in the North. The concept and practice of development have undergone significant transformation since its inception in the immediate post-war period. One area of fundamental change can be seen from various schools regard or disregard for human rights. The progressive integration of human rights issues in the goals can be understood from the history of development and the conceptualisation of development. Economic growth and the productive capacity was the primary concern of development practice during the 1950s and 1960s.

According to Allen and Thomas[139] "Modernisation theory, which conceived of development as the achievement of the same social, economic and political standards as the industrialised North, took the state to be the main agent, and principal targets, of development efforts". In light of the above, a gap exists in the modernisation theory because the idea of individuals as agents and ends of development is lacking, which is a concern for human rights. During the 1960s and 1970s, as will be seen in chapter four of this thesis, the growth-centred paradigm was challenged by what has been identified as "people-centred" development. According to Shestack[140], owing to various "theories" in relation to the concept of Human Rights ,such as legal positivists, natural law scholars, the Universalist and the specific school, the major

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[139] Allen and Thomas (2000), pp. 30-31
[140] See Shestack. JI (1998) "The Philosophic Foundation of Human Rights"

philosophical divide can be seen between the legal positivists and the natural law scholars. According to Austin[141], the legal positivists defined human rights as "product of laws duly posited or enacted by an authority empowered by law to do so, commanding people to obey, failure of which attracts sanctions". In other words, any moral or religious influence has no place or is devoid in legal positivists" conception of human rights. According to Macdonald[142], human rights "accrue to persons, because they are humans; they are inherent, fundamental and inalienable, universal, eternal and unalterable moral truths that attach to all human beings by virtue of their humanity". The naturalist view is reflected in the international human rights instruments, and it"s the most common or widely viewed concepts of human rights among scholars. According to Justice Eso[143] of the Supreme Court of Nigeria, human rights are regarded as rights that "stand above the ordinary laws of the land and are in fact antecedent to the political society itself and it is a primary condition to a civilised existence".

Further, human rights as defined by the Office of the United Nations High Commissioner for Human Rights (OHCHR)[144] is "Inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. We are all equally entitled to our human rights without discrimination. These rights are all interrelated, interdependent and indivisible". The above assertion defines human rights in totality. The concept of human rights is closely allied with ethics and morality. Those rights that reflect a community's values will be those with the most chance of successful implementation. However, Positive rights may include those rights enshrined within a legal system, whether or not reflective of moral considerations, whereas a moral right is not necessarily enforceable by law. One may quickly discover positive rights. Deducing or

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[141] Austin. J postulated the legal positivists school and he is a product of Jeremy Bentham.
[142] See Macdonald "natural Rights" cited in J. Waldron (ed) Theories of Rights (1984) 1-40
[143] See Ransome Kuti v AG of Nigeria (1985) NWLR (part 6)211.
[144] See Office of the High Commissioner for Human Rights "What are Human Rights? (2015).

inferring moral rights is another matter entirely and will depend upon the perception of the person seeking the existence of a particular right[145]. In addition, Rights may be seen as emanating from various sources, whether religion or the nature of man, or the nature of society. The Natural Law view, as expressed in the traditional formulations of that approach under the natural rights movement, is that certain rights exist as a result of a higher law than positive or human-made law. Such a higher law constitutes a universal and absolute set of principles governing all human beings in time and space. However, positivism as a theory emphasised the authority of the state, and as such left little place for rights in the legal system other than specific rights emanating from the constitutional structure of that system[146]

while the Marxist doctrine, although based upon the existence of specific immutable historical laws governing society's development, nevertheless denied the existence of rights outside the framework of the legal order.[147] In light of the above, this thesis has attempted to demonstrate a relationship or intersection between Human Rights and Development. This thesis will also argue that recognising the link between the three concepts is not adequate in itself. However, there is the need to establish an open, inclusive, and participatory society to ensure policy coherence between the SDGs and the existing human rights framework. In other words, the adoption of the Human Rights-Based Approach to Development is imperative in addressing human capital development challenges in Nigeria.

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[145] See Cranston. M, „What are human rights? In Laquer and Rubin, Human Rights Reader, pp.17, 19.
[146] See e.g. Lloyd. D (1979), Introduction to Jurisprudence, 4th edn, London, chapter 4. See also Hart. H, The Concept of Law, Oxford, 1961; McDougal et al., Human Rights, pp.73-5.
[147] See e.g. Lioyd, Jurisprudence, chapter 10, and McDougal et al., Human Rights, pp.76-9

3.3. The Concept of Sustainable Development Goals

In 1987, the white paper document,[148] set the loose foundation of sustainable development with a widely quoted definition, which states, "Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs." The document, also frequently known as the Brundtland Report,[149] has "since been taken up by almost every international institution, agency and NGO." The Brundtland Report became the first document to support sustainable development as a multi-disciplinary field, as it explained that the economy, society, and the environment were crucial to sustainable development. All definitions of sustainable development require that we see the world as a system, a system that connects space; and a system that connects time. When you think of the world as a system over space, you grow to understand that air pollution from North America affects air quality in Asia and that pesticides sprayed in Argentina could harm fish stocks off Australia's coast. Besides, when you think of the world as a system over time, you start to realize that the decisions our grandparent made about how to farm the land continue to affect agricultural practice today; and the economic policies we endorse today will have an impact on urban poverty when our children are adults[150].

In the same connection, the importance of development cannot be overemphasised because it is essential and critical to a nation state's growth and sustenance. Given the enormous resources endowment in Nigeria, the country is still perceptibly characterised by poor investment in human capital development, which is the country's most significant challenges. Poverty, decaying physical infrastructure, unemployment, underemployment, and massive structural disarticulation of the economy, especially in the Northern part of Nigeria, is as a

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[148] „Our Common Future", published by the World Commission on Environment and Development (WCED).
[149] "THE CONCEPT OF SUSTAINABLE Development. An evaluation of its usefulness. Ten years after Brundtland", Centre for Social and Economic Research on the Global Environment University College London and University of East Anglia.
[150] Ibid

result of poor human capital development. According to Obadan,[151] "the paradox is that the levels of poverty as a result of poor human capital development in Nigeria contradicts the country''s immerse wealth." It is believed that a model of governance that encourages transparency and accountability would accelerate the growth process and bridge the gap between North and South in terms of development. This can be done by addressing the persistent human capital development challenges responsible for burgeoning poverty in the country, particularly in the North. Kwannashie,[152] contends that sustained economic growth and development would have been made possible due to the return to democratic governance in 1999, which provide a unique opportunity for Nigeria to re-strategies and re-orientate the country. Unfortunately, due to differing practices in terms of investment in human capital development and governance in facilitating development generally, this opportunity is also being thrown away. Norton and Alwang,[153] argued that the term sustainable development as a concept lack or defies precise definition like most concepts and as such could be defined as "Improvement in the standard of living of the entire population of a given country or region." The disparity in terms of development between North and South is overwhelming due to poor human capital development, which gives rise to poverty, particularly in the North. For this thesis, sustainable development is regarded or defined as a process with an array of economic and social dimensions that requires a minimum rising per capita income, reduction in inequality over the long-term and eradication of absolute poverty, and the integration of the Human rights-based approach to development. According to Olufemi,[154] development is regarded as "a social process which is complex and multi-dimension in nature. It involves

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[151] Obadan, M. I. (2001), "Poverty Reduction in Nigeria: The Way Forward." CBN Economic and Financial Review, 39 (4) December.

[152] Kwanashie, M. (2009), "The Role of Productivity in the Realisation of Nigeria''s Vision 20-2020". A Paper Presented at the 10th National Productivity Day Symposium Organised by National Productivity Centre in Abuja, on 12th May.

[153] Norton, G. W. and Alwang, J (1993) Introduction to Economics of Agricultural Development. New York: McGraw-Hill. Inc.

[154] Olufemi, K. (1998), "The Role of Politics in Human (under) Development in Nigeria" in Kolawole, D. (Eds) Issues in Nigerian Government and politician. Dekaal Publishers.Ibadan pp. 97-100.

social, economic, political, cultural and legal aspect or facet of life." In light of the preceding, development is dynamic in nature. In other words, it entails not only changes in the structure and level of economic activity but also provides an array of opportunities for individuals in terms of choices and building self-esteem through investment in human capital development. In addition, the most essential or pertinent questions relating to the meaning of development was posed by Seer,[155] who opined that "the questions to ask about a country"s development are therefore: what has been happening to inequality? What has been happening to poverty? What has been happening to unemployment? If all three of these have declined from high level, then beyond doubt this has been a period of development for the country concerned. If one or two of these central problems have been growing worse, especially if all three have, it would be strange to call the result „development" even if per capital income doubled."

From Seer's definition, it is clear that three critical challenges face Nigeria as a developing country. One advantage of Seer's definition is that it helps understand the concept of development by emphasising the need for improvement in human capital development, which increases the standard of living of the citizens. The disadvantage is that economic indicator is the only premise upon which he explained development. Further, as a composite phenomenon, development defies a single and linear conceptual clarification because it is a many-sided concept. From the definition above, Sustainable development should be harnessed in its entirely. In other words, it involves both positive and holistic transfiguration of human capital development of the north and south in terms of the lives of individuals in the entire country. It is evidently clear that Sustainable development is about investing in human capital, thereby reducing poverty (SDG1) and improving the standard of living in the north and south, which constitute the preponderance of development in Nigeria. Norton and

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[155] Seer, D. (1972), "The Meaning of Development" In N. Bastor (eds), Meaning Development. London: Frank Cass.

Alwang,[156] also notes that the term development encompasses "not only a growth component but distributional components both for the current population and for the future generation irrespective of ethnic or religious background." In addition, the World Bank,[157] in support of the above statement established that the most important goal of sustainable development is reducing poverty due to investment in human capital. Kjellen,[158] reminds that "poverty eradication, changing consumption and production patterns and protecting and managing the natural resources base for economic and social development are overarching objectives of and essential requirement for sustainable development." The next section will examine the concept of human rights.

3.4. The Concepts of Human Rights

It has been defined in various ways by different scholars and globally. Human rights have enjoyed tremendous attention, and virtually all national constitutions embody human rights either in their preamble or substantive provision in a bid to concretise and energise human rights protection at the national level. The power of right is made possible for an ever-expanding number of people, such as the marginalised group of women, girls, and the Almajiris in the North compared to the South, to claim freedom, equality, and justice, and well-being. According to the United Nations, Human rights are defined as "Human Rights are rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status. It includes the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education and many more. Everyone is entitled to these rights without discrimination".

[156156]Norton, G.W. and Alwang, J. (1993). Introduction to Economics of Agricultural Development. New York: McGraw. Hill. Inc.

[157] World Bank (1993) Sub-Saharan Africa: From Crisis to Sustainable Growth. A long-term Perspective Study. Washington D.C.

[158] Kjellen, B. (2008) A New Diplomacy for Sustainable Development: The Challenge of Global Change. New York: Routledge.

Human rights underpin the aspiration to a world in which every man, woman, and child lives free from hunger and protection from oppression, violence, and discrimination, with the benefit of acquiring quality education, good health, well-being, and other opportunities to improve their lives and contribute to the development of Nigeria. It is the primary responsibility of the State to respect, protect and fulfill human rights. The obligation to respect human rights is a primarily negative one. In other words, this implies rights should not be violated[159]. Nigeria as a state must protect individuals from human rights violations. This implies that Nigeria as a nation-state needs to proactively ensure that persons within its jurisdiction do not suffer from human rights violations like quality education, good health, and well-being, the two central pillars of human capital development. The obligation to fulfill involves state to adopt appropriate laws that implement their international undertakings. This involves incorporating the very rights protected by the international instrument into domestic law. Further, the Universal Declaration of Human Rights (UDHR) has had a positive effect on the legal, cultural and political evolutions of nations or states. It served as a template for subsequent human rights instruments and remains the mirror by which "every individual and every organ of society" reflects on human rights.[160] Also, towards global movement and endorsement of human rights promotion and protection, Nigeria has subscribed to and is a signatory to major international human rights instruments. For instance, Nigeria is a party to the actualisation of the African Charter on Human and People"s Rights[161] (ACHPR). It is evidently clear that Section 13 of the 1999 constitution specifically noted that the realisation and effectuation of the rights is the obligation of the state, and it provides that "It shall be the

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[159] Moeckli., D. Shah, S and Sivakumaran, S. (2010)," International Human Rights Law" Oxford University Press: Great Clarendon Street. Oxford New York

[160] See Reflection on Universal Declaration of Human Rights: A Fiftieth Anniversary Anthology (Barend Heijden and Bahia Tahzib-Lie eds, 1998.

[161] See Abacha v Fawehinmi (2000) 45 C (PT.11); (2000) 6NWLR (pt.660) 228. An indication of the faithful obedience and execution of the treaty. This charter is dated back to 1961 during a conference on the Rule of Law in Nigeria. See also "Kerba Mbaye keynote address: An Introduction to the African Charter on Human and Peoples Rights". Report of a Conference held in Nairobi from 2nd to 4th December 1985.

duty and responsibility of all organs of government, and of all authorities and persons exercising legislation, executive or judicial powers, to conform to, observe and apply the provisions of the Fundamental Objectives and Directive Principles of State Policy". Article 4 of the African Charter on Human and Peoples Rights also provides that "Human Rights are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right."[162] According to Owasanoye,[163] despite being a signatory to all major international human rights instruments, "Nigeria"s human rights record is not encouraging when viewed against the country"s size, and potentials. It is almost limitless opportunities, the impoverished status of the majority and the current state and outlook of the people." This is visibly seen as the case in the northern part of Nigeria. The Sustainable Development Goals or the post-2015 development agenda and selected indicators will help in bridging the gap in terms of development, good governance, and human rights standards, particularly economic, social and cultural rights, by addressing inequalities and discrimination, ethnicity, lack of transparency and accountability, the rule of law, violence, and poverty. According to the United Nations, human rights may be defined in light of the foregoing as "Human Rights are rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status. It includes the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education and many more. Everyone is entitled to these rights without discrimination". In addition, according to the United Nations[164] the definition of a Human Rights-Based Approach to Development is "a conceptual framework for the process of human development that is normatively based on international human rights standards and

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[162] See Article Four of the African Charter on Human and Peoples Rights.

[163] Owasanoye, B. (1998), "Rule of Law, violation of human rights and the abuse of legal-social power, General Sani Abacha Regime (1993-1998).

[164] See UN Office of the High Commissioner for Human Rights (OHCHR). Frequently Asked Questions on a Human-Rights Based Approach to Development 2006. Available at http//wwwohchr.org/Documents/Publications/FAQen.pdf.Accessed 23 January 2019.

operationally directed to promoting and protecting human rights… UNICEF"s foundation strategy for human right-based approach underpins the equity agenda". By examining the constitutional provisions on human rights, it is imperative to note that one of the Federal Republic of Nigeria's post-independence constitution's primary or fundamental objectives is protecting and promoting human rights. One of the core principles of the 1999 constitution in terms of its preamble is to promote "good government and welfare of all persons on the principles of freedom, equality and justice."[165] Human Rights issues were extensively dealt with in Chapter two and four, apart from the preamble in the 1999 constitution. Chapter two is classified as Fundamental Objectives and Direct Principles of State Policy, whilst chapter four is classified or referred to as "fundamental rights." The second-generation rights, also known or referred to as economic, social, and cultural rights under the Fundamental Objectives and Direct Principles of State Policy, are extensively set out in sections 13 to 21. These rights are set out partly as individual entitlements, partly in the form of state obligations to act, and partly as objectives to be achieved incrementally. Economic, social, and cultural rights signify the necessity for the citizens' material well-being whilst the government plays a significant role in ensuring that these rights are made possible for their enjoyment.[166] The following are examples of economic, social and cultural rights: Social security, qualitative and accessible education, economic welfare, employment, and security, including the prevention of the monopoly of public resources by a minority in society, available health care, and a living wage.[167]The next section will evaluate the concept of Human Capital Development.

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[165] See The 1963 and 1978 constitutions for comparison in terms of declaration.
[166] Schutter, O. (2013) Economic, Social and Cultural Rights as Human Rights: Edward Elgar Publishing Ltd.
[167] Leckie, S and Gallangher, A. (2016) Economic, Social, and Cultural Rights: A Legal Resource Guide: University of Pennsylvania Press.

3.5. Human Capital Development/Investment

The lack of investment in human capital development (education and health) has led to Nigeria's continuous development challenges over the last 50 years. In light of the foregoing, it has convincingly been argued by human capital development experts that without investment in human capital, economic growth and development will be difficult, if not impossible. According to Becker (1993) and Schultz (1993), investment in human capital development positively impacts Nigeria's development challenges. Investing in human capital brings about development in a nation and improves citizens' overall living conditions. Human capital development is critical to reducing unemployment, particularly among the youths. It is important to note that investment in both education and health are human rights that the citizens of a country are entitled to as part of the state's human rights obligation. Nigeria continued to face development challenges due to the underutilisation of existing capacity and loss of the same through the brain, which continue to hinder development outcomes. Anya opined that Human Capital Development implies "building an appropriate balance and critical mass of human resource base and providing an enabling environment for all individuals to be fully engaged to contribute to sustainable development efforts. It involves providing opportunities for all citizens to develop to their fullest potential through education, good health and well-being, training and motivation while creating the enabling environment for everyone to participate fully in achieving sustainable development goals". The next section will evaluate Human resources and its link to human rights in addressing Nigeria"s development challenges.

3.6. Human Resources and its link to Human Rights.

The character and pace of a nation‟s economic and social development is determined by the level of her human resources, and not her physical capital and material resources[168]. Harbison[169] in line with the foregoing state that "human resources constitute the ultimate basis for wealth of nations and that human beings are the active agents who accumulate capital, exploit natural resources, build social, economic, and political organisations, and carry forward national development while capital and natural are passive factors of production". In the formation of human capital, education and health are the two central pillars, and according to Aluko and Aluko[170] education "occupies an important place in most plans for economic and social development. It is a prerequisite for the accomplishment of other development goals. It is also the main sector through whose national identity goals and aspirations are given meaning and reality among people". Long-time investment in human resources can be said to be responsible for the development successes recorded by the developed countries of the world, such as America, Europe, and Asia. Also, from human rights perspectives, education is a human education is a human right stated under article 2 of the First Protocol. Protocol 1, Article 2[171] therefore protects an individual right to effective education, and it states that "No person shall be denied a right to an education. In the exercise of any functions which it assumes in relation to education and teaching, the States shall respect the right of parents to ensure such education and teaching is in conformity with their own religious and philosophical convictions". Health the second pillar of the human capital development and it‟s a fundamental human right. According to Tedros[172], "The enjoyment of

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[168] Aluko, Y.A., and Aluko, O. (2012)," Human Capital Development: Nigeria‟s Greatest Challenges. Journal of Management Policy and Practice, 13(1), 162-177.
[169] Harbison, F. (1973)," Human Resources as the Wealth of Nations" New York: Oxford University Press.
[170] Aluko, Y.A., and Aluko. (2012)," Human Capital Development: Nigeria‟s Greatest Challenges. Journal of Management Policy and Practice, 13(1), 162-177.
[171] See Equality and Human Rights Commission. Available at www.equalityhumanrights.com/human-rights-act2 . Accessed 5 December 2019
[172] Statement by Dr Tedros Adhanom Ghebreyesus, the WHO Director-General 2017.

the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, political belief, and religion, economic or social condition". He stated further that "when people are marginalised or discriminated for example women, girls and the Almajiris in the North, their physical and mental health suffers. Discrimination in health care is unacceptable and is a major barrier to development[173]". The human rights-based approach to both education and health is critical to address inequalities in human capital development between the North and South Nigeria. To address Nigeria"s development challenges, there is a need to adopt of a human rights-based approach to education and health. The next section will examine the relation or link between human rights, human capital development, and the sustainable development goals.

3.7.   The Linkages between Human Rights, Human Capital Development and SDGS

> "Human Rights are the foundation of human existence and
> coexistence. They are universal, indivisible and interdependent.
> And lie at the heart of everything the UN aspires to achieve in its
> global mission of peace and development". Kofi Annan[174]

Like many other concepts, development is a malleable and challenging concept, which has an issue of definitional pluralism. This is a result of different meanings attached to the concept of development. Different perspectives are shaped and produced due to political, social, and economic factors. The understanding of the concepts is based on both political and economic ideologies. For instance, the Marxists and Socialists account are different from the capitalist understandings.[175] According to Allot, development is defined as, "the enhancement of life and life possibilities for the ordinary individual, not merely his betterment in a strictly

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[173] Ibid.

[174] Kofi Annan, Secretary-General of the United Nations report on development, security, and human rights for all in 2005.

[175] Matsuura, Y. (2005) The Role of Law in Development Past. Present and Future: Nagoya University.

economic still less a purely statistical sense. "On the other hand, According to Udombana,[176] "development in practical and functional terms professes itself from a list of services that ordinarily suffer from neglect such as an effective and efficient transportation system for the people, access to affordable communication services like television, radio, postal services, internet, telephone and an effective, efficient and reliable public service administration." United Nations Development Programme, UNDP,[177] opines that "development indicators have been generally identified and are being used by different institutions to determine the level of development of a particular country; these development indicators include SDG3:the level of health, SDG4:education,SDG1: poverty and SDG10: inequality, SDG6: water and sanitation, SDG2: hunger and food security; SDG11: safety and security, and SDG8:employment". According to the United Nations[178] (UN),"the right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realised". In other words, development and human rights are intricately linked because the right to development is rooted in the Charter of the United Nations, the Universal Declaration on Human Rights, and two International Human Rights Covenants. In light of the above, numerous documents have "explicitly acknowledge their indivisibility, including the Declaration on the Right to Development (1986), the African Charter on Human and Peoples" Rights, the Declaration on the Rights of Indigenous Peoples (2007), the Vienna Declaration and Programme of Action (1993) and the Rio Declaration on Environment and Development (1992)". This thesis expressly argued based on the declarations that both development and human rights framework are linked and "share the same enthusiasm and motivation to

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[176] Udombana, NJ. (2000) "The World and the Right to Development: Agenda for the Next Millennium" 22 Hum Rts Q 756.
[177] UNDP Human Development Report (1997) 137.
[178] See www.un.org/right-to-development Accessed 10 March 2020.

promote the freedom, well-being and dignity of individuals". This thesis also argued on one hand that human development improves the capabilities and freedoms of individuals and on the other, that human rights provide the "framework for a social arrangement that facilitates and secures capabilities and freedoms expressed by human development". From the preamble of the Declaration, development is defined as "a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the wellbeing of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting there from".

Further, from a human rights perspective, the relation between human right-based approach and human capital development can be examined from the OHCHR (2006) definition of HRBA as a concept by evaluating its key elements and its distinctiveness. In other words, the link between the two concepts is based on human freedom and dignity, the realisation of human rights including economic, social, cultural, civil and political by all individuals, and this a central objective of development. It is important to note that the above stated key elements are "consistent with the priorities of the human development and capability approach to development". According to UNDP[179], "Human rights and human development (capabilities) share a common motivation and commitment to human dignity and freedom". Sen[180] (2005) and Nussbaum[181] (1997) both argued that human development and human rights are two different concepts but that they overlap considerably. Nussbaum states explicitly that "human capital development has a close relationship to human rights. In other words, they cover the terrain by both the "so-called first generation rights (political and civil rights) and the so-called second-generation rights (economic and social rights)". In addition,

[179] See United Nations Development Programme (UNDP)," Human and Development". Available at www.undp.org. Accessed 10 December 2019

[180] Amartya, A. (2005)," Human Rights and Capabilities" Journal of Human Development vol.6 No. 2 pp.151-166

[181] Nussbaum, M. (1997)," Capabilities and Human Rights" Fordham Law Review 66 reprinted in Patrick Hayden, ed. The Philosophy of human rights. Paragon House, St Paul, Minnesota.

complementary sets of analytical tools and action approaches that could aid the common goal of securing human dignity and freedom have been developed by the field of study of human capital development and human rights. The human right-based approach is also consistent with human development agenda. In other words, "It places high priority to achieving equity, meeting basic needs for survival and security but also participation, and promoting human agency". However, the human right-based approach brings "distinct new features and emphasises others more explicitly to the overall framework of human development"[182] In light of the above, no development can flourish without legal prescriptions regardless of how well designed and conceptualised. From this point of view, one can argue that human rights, particularly the Economic, Social, and Cultural Rights (ESCR), human capital development, and sustainable development, are mutually linked or related concepts. Due to the importance attached to the right to development, the Vienna Declaration equally links other internationally recognised human rights to it. For instance, many international organizations (EU), UNDP, and the World Bank have included human rights in their development dictate. Also, other commentators in the likes of MacNaughton[183] argued that human rights, human capital development, and sustainable development are divergent and not intersection. She opined that SDG10 particularly" vertical inequalities" for example, "income or social outcome, inequalities of wealth, including inequalities in health, education and housing" are areas where SDGs' implementation failed to address the issues despite the negative effect of extreme economic inequalities that is overwhelming using target 10.1 as an example that addresses economic inequalities and poverty reduction. She then calls for the need for

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[182] Sakiko, F . (2007) supra note 147.
[183] MacNaughton cited in inga T, Winkler and Carmel, Williams (2017) The Sustainable Development Goals and human rights: a critical early review, The International Journal of Human Rights, 21:8, 1023-1028, DOI: 10.1080/13642987.2017.1348695. Available at http://doi.org/10.1080/13642987.2017.1348695 Accessed 7 February 2019.

extensive or broad interpretation and development of human rights norms. Saiz and Donald[184] argued that SDG10 on equality does not conform to human rights and as a result could hinder the implementation of SDG10 due to "imprecise language" used. They opined that two important or vital policy areas, such as human rights standards and tools, should be considered to reduce inequality. Chapman[185] argued that SDG3 targets lack human rights standards. Her study's premise is based on "underlying determinants of health". She observed that SDG3 targets lack human rights in their integration. It is important to note that what is central to sexual and reproductive health is a right-based approach to development which makes decision-making and individual autonomy key issues. She further stated that" SDG3 the reproductive health target lacks "a rights-based approach but rather paid attention to "technical approach which leaves the main structural issues which are women"s right and their ability to control their lives". According to her most vulnerable and disadvantaged will be left behind due to the lack of a right-based approach within the SDGs.[186]

Further, other commentators who argued in favour of the link or intersection between human rights, human capital development, and SDGs include Feiring and Hassler[187] who states that human rights are closely linked to many SDGs and targets particularly, Economic, Social and Cultural Rights. They opined that 156 of the 169 targets are in convergence with human rights and labour standards. The United Nation (UN) Secretary-General[188] at the end of 2016, states that "while the SDGs themselves are not framed explicitly in the language of human rights but as aspirational goals and that human rights particularly Economic, Social and

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[184] Ibid 1
[185] Ibid 2
[186] Ibid 3
[187] Feiring, B and Hassler (2016) Human Rights in Follow-Up and Review of the 2030 Agenda for Sustainable Development. Draft Paper Danish Institute for Human Rights (DIHR). February 2016. P 7.Available at http://www.un.org/esa/socdev/unpfii/documents/2016/National-HR/DIHR-FUR-Paper-final-draft_29_02_16_Danemark.pdf.Accessed 8 February 2019.
[188] See the 2030 Agenda, the SDGs and targets are universally applicable and global that integrated and indivisible considering different national realities, level of development, respecting national policies and capacities. UNGA Res 70/1, supra fn 3.555

Cultural Rights have greater scope than the SDGs. In other words, all the Goals correspond to the contexts of key economic, social and cultural rights." According to the UN Secretary-General, the link or intersection between human rights, particularly ESCR and SDGs, can be seen by examining SDG6 and the right to work. He opined that the "key normative content of the right to work" which include "the right to maintain access to existing water supplies necessary for the right to water, the right to be free from interference, such as the right to be free from arbitrary disconnections or contamination of water supplies and the right to a system of water supply and management that provides equality of opportunity for people to enjoy the right to water."[189] Golay[190] argued that SDG3 and the right to health are other examples to illustrate the link or intersection between human rights, particularly the ESCR, human capital development, and SDGs, by examining the states' commitment to adopting the 2030 Agenda. He opined that SDG3 was adopted to ensure healthy lives and promote well-being for all ages. Golay states that SDG3-related targets include "reducing maternal mortality, ending preventable child deaths, ensuring universal access to sexual and reproductive health-care service and achieving universal health coverage, including access to quality essential health-care service and safe, effective, quality and affordable essential medicines and vaccines for all" In light of the above, it is imperative to note that the main elements of the right to health is covered in the content of SDG3 and its related targets as it has been defined in International Human Rights Law. However, other commentators like Donnelly and Uvin argued that this is a theoretical perspective. Donnelly,[191] particularly states that "Human rights and sustainable human development are inextricably linked only if

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[189] See the report of the UN Secretary-General on the Question of the Realisation in all Countries of Economic, Social and Cultural Rights, supra fn 56.511

[190] Golay, C. (2018)No one will be left behind: The role of United Nations Human Rights Mechanisms in Monitoring The Sustainable Development Goals That Seek To Realise Economic, Social and Cultural Rights.Geneva Academy Briefing Paper. Available at https://www.geneva-academy.ch/joomlatools-files/document-files/Briefing11-interact-HD.pdf.Accessed 8 February 2019.

[191]Donnelly, J. (1999) "Human Rights, Democracy and Development" 21 Hum Rts Q 611; See also Donnelly Universality of Human Rights 217-234.

development is defined to make this relationship tautological. Sustainable human development simply redefines human rights, along with democracy, peace, and justice, as subsets of development". Another commentator in Sano's likes argued that what exists between these concepts is a partial integration. Sano,[192] states that, "Human rights and development share a basic notion of justice and dignity and a common interest in regulating power and participation. These are the perspectives that have attracted increase attention in developing ideas about governance, poverty eradication, human development, basic needs, participation, non-discrimination, rule of law, and economic, social, and cultural rights." Nevertheless, looking at the global trend, one can conclude that a relationship or link exists between the two concepts. According to   United Nations Declaration on the Right to Development (UNDRD), development is regarded as human rights. As provided in Article 10 of the Vienna Declaration and as contained in the UNDRD, the right to development states that "a universal and inalienable right and an integral part of fundamental human rights." Goals,[193] (SDGs) also known as the post 2015 development agenda all have human rights as their major goal.

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[192]Sano (2000) Human Rts Q744.
[193] Darrow, M. (2012) "The Millennium Development Goals: Milestones or Millstones? Human Rights Priorities for the Post-2015 Development Agenda" 15 Yale Hum Rts &Dev LJ 55-128.

3.8.   Anti-Corruption

Nigeria presents a typical case of a country in Africa whose aim to achieve human rights and implement sustainable development goals between the North and South has been undermined and retarded by the menace of corrupt practices visible between the two regions, particularly in the North. According to Lawal and Tobi[194], "to say that corruption has eaten deep into every aspect of the Nigeria society is to affirm the obvious". Corruption acts as a means of exclusion because it denies the citizens their right to quality education and good health and well-being. It is an act committed by public officials aimed to further private interests at the expense of public ones. These interests include maintaining power and the illegal diversion of national funds to private pockets. These two indicators are the major pillars of human capital development. The impact of corruption as a means of social exclusion can be seen, particularly in the North where most funds budgeted for education and health end up in private pockets. The resultant effect is also seen where women, girls, and the Almajiris are seen in public begging for arms instead of acquiring quality education in the North. According to Obi[195], political corruption effectively excludes the Nigerian public from effective participation across all forms of government. Corruption hinders good governance, which can be seen in the North and Niger Delta in the South.

The Niger Delta contains most of the country"s oil reserves. However, the discovery of oil in the region is yet to translate into improved human capital and economic development in Nigeria. In the North, deprivation, although under different circumstances, is the case in many parts of the region, which is generally less developed than in the South[196]. In the light

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[194] Lawal, G and Tobi, A. (2006)," Bureaucratic corruption, good governance and Development: The Challenges and Prospects of Institution Building in Nigeria.

[195] Obi, K.E. (2012)," Democracy and Good Governance in Nigeria: A Survey of Indices of Transparency and Accountability" Bloomington.

[196] BBC News, (2011A),"Nigeria: A Nation Divided (Map). Available at http://www.bbc.co.uk/news/special/world/11/nigeria election toggle maps/img/nigeria wealth 624.gif Accessed 20 April 2020

of the above, good governance efforts rely on principles such as transparency, participation, accountability, responsiveness, equitable and inclusive, and the rule of law in fighting corruption. In addition, creating a mechanism of information sharing, anti-corruption commissions and monitoring government use of public funds, and implementing policies are some of the initiatives necessary in fighting corruption.

3.9. Governance

This thesis will also evaluate the concepts of governance in relation to the relevance of human rights and human capital development in implementing SDGs in Nigeria. Like the concept of development, the term governance as a concept has no single and exhaustive definition, and in terms of its scope, no definition commands universal acceptance. The concept of governance has been in political and academic discourse and in the development literature for a while. As a result of this, the issue relating to governance has become a national concern. United Nations Development Programme (UNDP)[197] defined governance as a "system of values, policies and institutions by which a society manages its economic, social and political affairs through interactions within the state, civil society and private sector". In other words, governance intrinsically or principally involves the process and mechanisms for individuals and various ethnic groups to articulate their interests, mediate their differences, and work together. To exercise their legal rights and obligations with rules, institutions, and practices that set limits and provide incentives for individuals, organizations, and firms. The former commission on human rights in its resolution 2000/64 stated that good governance concepts are associated with the following key characteristic or attributes: Transparency, responsibility, accountability, participation, and responsiveness to the need of people. Further, the issue of governance, among other things, is regarded as one of the challenges

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[197]United Nations Development Programme, 1997, 2000.

facing Nigeria as a nation state (UNDP, 2002)[198]. In other words, it is referred to as the prevalence of unaccountable government, widespread corruption and the denial of fundamental human rights, and the extensive personalisation of power. According to Laurence Lynn and Carolyn[199] Hall, an American public management scholar, governance is regarded as "regimes of laws, administrative rules, judicial rulings, and practices that constrain, prescribe, and enable government activity". From their view, governance is about configurations rather than mere assortments of separate but interdependent elements related to government performance. In their thinking therefore, governance is an "arrangement of distinct but interrelated elements, statutes including policy mandates, organisational, financial, and programmatic structures, resources levels, administrative rules and guidelines, and institutionalised rules and norms that constrains and enables the tasks, priorities, and values that are incorporated into regulatory, service production and service delivery process".

In addition, Huther and Shah[200] economist practitioners opined that governance is "a multifaceted concept encompassing all aspect of the exercise of authority through formal and informal institutions in the management of the resources endowment of a state". In support of their argument, the World Bank, in one of their studies, argued that "governance is the manner in which public and public institutions acquire and exercise the authority to provide public goods and services, including the delivery of basic services, infrastructures, and sound investment climate". According to Grindle[201] governance is viewed with respect to the public sector or state systems, and it is in reference to the core instruments of public services and deliberation. In support of Griddle"s view on governance, Chhotray and Stoker argued that

[198]United Nations Development Programme (UNDP, 2002) Human Development Report. New York: Oxford University Press.

[199]Laurence, E. Lynn.JJr., Carolyn, J. Heinrich and Carolyn. J. Hill (2000) Studying Governance and Public Management: Why? How? In Laurence. E. Lynn. Jr., Carolyn. J. Heinrich, and Carolyn. J. Hill (eds) Governance and Performance: New Perspectives. Georgetown University Press: Washington DC. P3.

[200]Huther, J and Shah, A. (2005). A Simple measure of good governance. In Anwar Shah (Ed) Public Service Delivery Public Sector, Governance, and Accountability Series. World Bank: Washington DC. (P.40).

[201] Grindle, M.S. (2010), "Good Governance: The Inflation of an Idea". Faculty Research Working Paper Series pp.1-21.

governance involves "the precept of inclusive decision-making in contexts where there are multiplicities of actors or assemblies and where no explicit control mechanism can determine the modalities of relationships between the actors and the assemblies. Bevir[202] in support of Chhotray and Stoker[203] opined that the term governance "is an assorted pattern of precepts than government is; with governance having a central approach on the channels and reciprocities that tie the state to the civil society". Despite the multiplicity of conceptual views on what governance is, almost all definitions have two broad practical implications with regards to poverty reduction and development. First, governance helps us systematically think of a range of formal and informal institutions, structures, organisations, and stakeholders and their interdependent relationships and improve government performance and service delivery in terms of investment in human capital development. Secondly, good governance involves social equity, which implies the fair, just, and equitable management and distribution of public services and resources, particularly among the marginalised group such as women, girls, and the Almajiris in the North. It also means that Nigeria's citizens should be treated as equals irrespective of their regions, groups, age, gender, cultural or ethnic background, or disabilities in terms of services between north and south to enhance implementation of Sustainable Development Goals (SDGs 3 and 4) in Nigeria. The next section will examine human rights, human capital development, and the 2030 development agenda for SDGs: a review of African perspective.

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[202]Bevir, M. (2010),"Democratic Governance,"Princeton University Press.
[203] Chhotray, V. and Stoker, G. (2010)," Governance Theory and Practice: A cross-disciplinary approach" London: Palgrave MacMillan.

3.10. A Review of African Perspectives on Human Rights, Human Capital Development and the SDGs

This section considers the relevance of human rights, human capital investment, and the 2030 development agenda from an African perspective. This discussion evaluates vital issues affecting development challenges in Africa and Nigeria. When one looks at Sub-Saharan Africa, Nigeria exhibits the same features that can be seen from colonial, economic, culture and other social challenges with particular reference to human rights and development. The SDGs, human rights, and human capital development are vital in addressing the country's development challenges. An evaluation of Nigeria's human rights system over time represents an extensive and unique system that is peculiar to Africa. The application of a human right-based approach in addressing Nigeria's development challenges should be examined within the historical context. Over the past few decades, key historical prodigy such "slavery, slave trade, colonialism, neo-colonialism and globalisation" in academia has generated immense interest. On the Africa continent, human rights and human capital development have been affected drastically as a result of this. These concepts have defined most present-day human rights instruments. In other words, a reflection of a "cultural mix" can be seen in both the Nigeria" human rights and the general Africa human rights" instruments. Salim Bashir Magashi,[204] in his hypothesis notes "that there is abundant evidence to show that the right to development has an indigenous African cultural fingerprint, which makes or should make it appropriately acceptable to Africans, including Nigerians, to serve as a basis for solving the myriad of challenges facing them" particularly poor human capital development.

To have a clear understanding of Nigeria's development challenges and address this problem, one will need to examine the concepts of human rights and human capital development in

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[204] Salim Bashir Magashi . Human Rights and Development: Traditional African Perspectives. Dissertation presented for the Degree of Doctor of Laws in the Faculty of Law at Stellenbosch University   2016

Africa prior to colonialism. This analysis would be done in chapter four of this thesis. It explores development challenges in the Nigerian context. The concept of human rights and human capital development from pre-colonial to post-colonial era will be examined. Further, international human rights treaties and the Universal Declaration of Human Rights are the bases upon which the SDGs address Africa development challenges, including Nigeria. The keys to ensuring effective human system is based on the principles of "non-discrimination, equality, participation and inclusion, rule of law "and the pillar of the SDGs which is to ensure that "no one is left behind" are both reflections upon which human rights function effectively in addressing Africa and Nigeria development challenges. At the global and regional level, the criteria, principles, and the guiding framework set aside in developing the SDGs were to ensure that development outcomes based on "goals, targets, and indicators" are based upon the vision. For the Africa region, it is essential to ensure that goals, targets, and indicators such as education and good health and well-being are based upon the three aspects of the SDGs, which help address human capital development challenges in Africa and Nigeria. As Africa pursues sustainable growth pathways, natural capital management is critical. This will require innovative strategies for sustainably maximizing social, economic, and ecological benefits from these resources.

This will require innovative strategies for sustainably maximizing social, economic, and ecological benefits from these resources. Africa and even Nigeria have enormous wealth in terms of natural resources. Still, they lack adequate human capital development due to the lack of a human rights-based approach in ensuring that the state invests in human capital, particularly the marginalised or vulnerable groups such as women, girls, and the Almajiris in the North and other marginalised group in the South. Political corruption, lack of rule of law, and access to justice have denied these groups from enjoying their fundamental human rights despite the country's mineral resources. In the South, there are increasing levels of gender

parity in terms of education and the number of women in politics, particularly in parliament compared to the North. To address Nigeria's development challenges, the human right based approach will ensure equitable opportunities by promoting paid employment for women outside agriculture, discouraging early marriage. To address development challenges and achieve the SDGs, particularly in human capital development, the government needs to enhance gender equality and the need to also ensure that the citizens enjoy quality education and good health care. This will empower women and girls to actively participate in decisions that affect their lives, such as ensuring policy changes that negatively impact women, girls, and the Almajiris. This negative policy can be seen in terms of discrimination against women, girls, and the Almajiris in the North compared to the South, who are more educated and better equipped. Adopting a human rights-based approach will ensure women's greater participation, productive economic activities and help achieve the SDGs. The need to reform customary laws that discriminate against women, girls, and the Almajiris, ensure economic and social policies, and most importantly, invest in human capital development and financial resources to carry out such laws. This could help in addressing Nigeria's development challenges.

CHAPTER FOUR:
UNDERSTANDING NIGERIA'S DEVELOPMENT CONTEXT

The legacy of several centuries of racial exploitation, through slavery or slave trade and colonialism has led to Nigeria and Africa under-development in terms of poor human capital development, infrastructure, and lack of technological innovation, corruption, poverty, and governance challenges. The post-colonial era witnessed some degree of development in Nigeria, particularly in the South, while the North continued to experience an unprecedented level of under-development. According to LeVan[205], As a balancing act between the North and South, Nigeria's geopolitical structure forms the basis for sustainable development; it is a prevailing norm since independence to ensure equal development outcomes between the two regions. Nigeria"s geopolitical structure, as a balancing act between the North and South forms the basis for sustainable development; it is a prevailing norm since independent to ensure equal development outcomes between the two regions. However, different development challenges have made this impossible. According to Uchendu[206], the cultural and political differences between the two regions are largely due to the imperial origins of a unified Nigeria State. Britain imposed colonial rule in 1861 after conquering the coastal city of Lagos and began establishing agreements with emirs across the North. In the South, decentralised societies and the topographies of equatorial forests and the tributaries of the Niger River (forming the Niger Delta) presented additional challenges. The implementation of the Millennium Development Goals (MDGs) designed to address Nigeria development challenges failed as a result of the lack of a human rights-based approach to development in its implementation. The subsequent Sustainable Development Goals (SDGs), which replaced the MDGs, is linked to human rights. So far, this thesis has argued for the relevance of a

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[205] LeVan, C.A. (2015)," Dictators and Democracy in African Development: The Political Economy of Good Governance in Nigeria. Cambridge University. New York

[206] Uchendu, V. C. (1965)," The Igbo of Southeast Nigeria. Case Studies in Cultural Anthropology. Fort Worth, TX: Harcourt Brace Jovanovich College.

human rights-based approach in addressing Nigeria development challenges by first examining the evolution of a human rights-based approach to development, its key features, Rights-holder, and Duty-bearer and also the Regional African Human Rights System, The Africa/Banjul Charter on Human and Peoples Rights and the evaluation of Article 22 of the African Charter on Human and Peoples Rights. In this chapter, understanding development challenges in Nigeria will be the focus, and it will examine the history and context behind African development challenges. It will argue that applying a human rights-based approach is necessary or relevant in addressing development challenges, particularly the poor human capital development/investment in Nigeria.

> "Human rights are not, as has sometimes been argued, a reward of development. Rather, they are critical to achieving it" (UNDP, 2000:3)[207]

> "Human rights in the 1990s, to a greater extent than ever before, set a norm that regulates the relationship between state and society" (Sano, 2000:741)[208]

In chapter three, this thesis has critically analysed or examined the key concepts assessed, the theoretical perspective, and identified a knowledge gap. It further explored the linkages or relationship between Human Rights, human capital development, and Sustainable Development Goals (SDGs). It examined anti-corruption, Governance, and Human Rights and the 2030 Development Agenda for SDGs: A review of African perspectives. Human rights have not only acquired global status and importance since the adoption of the Universal Declaration of Human Rights in 1948 but have grown tremendously, both in content and conception. In Nigeria, the status of human rights is also without any historical antecedents based on the internationalisation of human rights that has been energised and strengthened by

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[207] See UNDP (2000) The Human Development Report: Human rights and human development, New York: UNDP and Oxford: Oxford University Press.

[208] See Sano, H.O. (2000)" Development and Human Rights: The Necessary, but Partial Integration of Human Rights and Development", Human Rights Quarterly, 22, 734-752.

several developments. This chapter will examine the effect or impact of the slave trade on human rights and development from the Pre-colonial or slave trade era, the Colonial and the Post-Colonial Era. This thesis also argued that despite Nigeria being a signatory to major international human rights instruments, social, economic, and cultural rights and large-scale human rights abuses still exist in terms of education and health, the two central pillars of human capital development in the North and South of the country. Article 1 (3) charter of the United Nations[209] "Internationally and nationally, the need for the promotion and protection of human rights is now not only recognised as the foundation of freedom and justice but as an integral and essential element for the preservation of peace not only within the confines of particular states, but universally".

Given this, the European[210] Convention on Human Rights signed on the 4th of November 1950 and entered into force in September 1953 covers a wide variety of primary civil and political rights. The rights covered in the Convention itself include the right to life (article 2), the prohibition of torture and slavery (article 3 and 4), the right to liberty and security of person (article 5), right to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law (article 6), prohibition of retroactive criminal legislation (article 7), right to respect for private and family life (article 8), freedom

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[209] See Article 1 (3) Charter of the United Nations. See also The Preamble, Universal Declaration of Human Rights, 1948.

[210] See e.g. Jacobs and White: The European Convention on Human Rights (eds. C. Ovey and R.C.A. White), 4th edn, Oxford, 2006; D.J. Harris, M. O'Boyle and C. Warbick, Law of the European Convention on Human Rights, London, 1955; M.W.Janis, R.S. Kay and A. W. Bradley, European Human Rights Law: Text and Materials, 3rd edn, Oxford, 2008; S. Greer, The European Convention on Human Rights: A chievement, Problems and Prospects, Cambridge, 2006; G. Letsas, A Theory of Interpretation of the European Convention on Human Rights, Oxford, 2007; La Convention Europeenne des Droits de I'Homme (eds. P. Imbert and L. Pettiti), Paris, 1995; L.J. Clements, N. Mole and A. Simmons, European Human Rights: Taking a Case under the Convention, 2nd edn, London, 1999; The European System for the Protection of Human Rights (eds. R. St J. Macdonald, F. Matscher and H. Petzold), Dordrecht, 1993; A.H.Roberson and J.G. Merrillis, Human Rights in Europe, 4th edn, Manchster, 2001; P.VanDijk, G.J.H. Van Hoof, A. Van Rijn and L. Zwaak, Theory and Practice of the European Convention on Human Rights, 4th edn, Antrwerp, 2006; P.jVelu and R. Ergel, La Convention Europeenne des Droits de I'Homme, Brussels, 1990; G. Cohen Jonathan, La Convention Europeenne des Droits de „J Homme, Paris, 1989; E. Lambert, Les Effets des Arrets de la Cour European des Droits de I'Homme, Brussels, 1999, and K. Starmer, European Human Rights Law, London, 1999. See also L.G. Loucaides, Essays on the Developing Law of Human Rights, Dordrecht, 1995; J.G. Merrills, The Development of International Law by the European Court of Human Rights, 2nd edn, Manchester, 1993.

of thought, conscience and religion (article 9), freedom of expression (article 10). Human rights scholars and activists concerned that the evolving global order was not adequately protecting and fulfilling human rights since the late 1990s began to focus on global poverty. They also argued that human rights are central to both the ends and means of the development process. The passage of the Convention to Eliminate All Forms of Discrimination against Women, and the Convention of the Rights of the Child aimed to pressure governments to stop human rights abuses. As an initiative, it attempts to "combine the two fields of endeavour that has previously developed in parallel and interacted little". In this chapter, this thesis will also answer the first research question which is to what extent is a Human Rights-Based Approach relevant to achieving the Sustainable Development Goals (SDGs 3 and 4) in a bid to address the development challenges particularly human capital development in Nigeria from the pre-colonial, colonial and post-colonial era? In other words, it will examine the history of ethno-regional cleavages in Nigeria. Why is this important to the study? The reason is simply that it had led the country to her present state or condition.

4.1 Placing Human Rights in Nigeria into Broader Context

Over several centuries, the Nigerian human rights system mirrored the African system in a broader context which is characterised particularly by African experiences. Therefore, it is imperative that any analysis of human rights on the continent of Africa needs to be mirrored against the backdrop of a broad socio-historical perspective. This is important to this study for two reasons: first is the transfiguration of different kinds of social organisations and exposition as a result of both domestic and external forces. Secondly, history in contemporary Africa society continues to exert its importance. Besides, over the last century, some of the key historical phenomena that have generated tremendous academic interests include globalisation, neo-colonialism, colonialism, slavery, and slave trade. The polemics of human rights and development in Nigeria and the continent of Africa are collectively and

particularly influence by these key historical phenomena. These concepts have defined most contemporary human rights instruments. The importance of slave trade and colonialism as adopted by African and Nigeria to the promotion of human rights is examined on the one hand and on the other, to what extent is a Human Rights-Based Approach relevant to achieving the Sustainable Development Goals (SDGs) in a bid to address development challenges in North and South Nigeria in the three historical contexts as stated in chapter one and two of this thesis.

4.2. Human Rights and Human Capital Development in Pre-Colonial/ Slave Trade Era

In the mid-nineteenth and early twentieth centuries, present-day Nigeria was created by the British colonial administration in the late nineteenth century. This is often referred to as the pre-colonial era. According to Falola and Heaton[211], between North and South Nigeria, the provision of luxury items and easy access to weaponry as a result of the slave trade during the pre-colonial Era contributed immensely to the development outcomes. During the seventeenth and eighteenth centuries, according to Lovejoy and Richardson[212] slave trade was a major source of revenue for the South, which became the key or major export in this region. In the South, slave trade transformed the societies during the pre-colonial era. In addition, for several centuries, the market for slave export in the Northern savannas had a major connection with the trans-Saharan trade. During this era, the expansion and consolidation in the North grew to an unprecedented level. In the southern forest zone states, the antiquity slave trade as a social institution becomes more difficult. However, the adoption of the slave trade during the pre-colonial era had become an essential aspect of development outcomes which in turn has become an essential aspect of social and political structure[213].

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[211]Falola.T and Heaton.M. (2014) A History of Nigeria 6th edition: Cambridge University Press.
[212] Lovejoy. P. E. and Richardson. D. (1995), "Competing markets for male and female slaves: prices in the interior of west Africa, 1780-1850, International Journal of Africa Historical Studies, 28, no. 2: 261-93.
[213] Ibid

As a social institution, the onslaught of slave trade as a significant or key factor responsible for governance and development outcomes was fuelled due to the arrival of the British imperialist during this era. Pawnship is another form of slavery which involves a family head given out their children as collateral when they obtain a loan pending when the debt is finally paid off. While this is on-going, the labor of the pawn essentially served as the interest on the debt. In addition, young females were the most priced pawns, and if the female pawn married into the creditor's family, the debts were cancelled, and the families joined together as kin.[214] Further, as old slaves died, new slaves were brought into the societies, which means that the system by and large integrated slaves into the new Nigeria society. In other words, this is not a development outcome that is a self-reproducing method or means.[215].

Slave traders seek the services of captive slaves as the slave trade became an increasingly important sector of the economies of state during the pre-colonial era, particularly in the societies of Southern Nigeria, by acquiring more slaves[216]. This has a negative impact on the North and South's human capital development. Through the Western Sudan kingdom, slave trade was conducted primarily through Songhay and Mali during the pre-colonial era, and this involves a significant percentage of human capital, which has a negative impact on the development outcomes of both the North and South. This figure during this era is likely to be in the realm of 800,000 slaves for the trans-Saharan as a whole[217]. During the pre-colonial days, the North had traded in slave trade across the Sahara, which is responsible for the region's economic development.[218] In addition, the slave trade in Tripoli became increasingly

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[214] Ibid

[215] See Fisher. G.B. and Fisher.H.J. (1971) Slavery and Muslim Society in Africa: The Institution in Saharan and Sudanic Africa and the Trans-Saharan Trade (Garden City, NY: Doubleday).

[216] See especially the discussion of the slave trade in the Bight of Biafra.

[217] See Lovejoy, Transformations in Slavery, 24.

[218] This is because data for the trans-Saharan trade in slaves is mostly confined to the markets of North Africa, the terminal points of the trade, where slaves were categorised spottily if at all. Little data on the make-up of the trans-Saharan slave trade exists in the kingdoms of origin in the western or central Sudan, making it difficult to estimate the percentage of slaves that originated in each sub-Saharan Kingdom. See the data tables in Ralph A. Austen, "The trans-Saharan slaves trade: a tentative census", in The Uncommon Market: Essay in the Economic

important due to slaves that were captured in the North and were subsequently exported in exchange for horses across the Sahara. This became a profitable business venture that determines the level of development outcomes. There were restrictions on the sales of male slaves during this era in the South, particularly in the Benin kingdom despite the increasing demand for them as the Oba of Benin argued that the impact of such trade would be devastating in terms of human capital development and the role male play in developing and securing their society. This development forced the European to reconsider the importation of slaves from other ports along the coast to purchase human cargo.[219] Benin maintained restrictions on the slave trade for roughly 150 years, re-entering the slave market only in the last decades of the seventeenth century. However, even from this point, Benin's contribution to the transatlantic slave trade remained minimal relative to the great slaving ports on the Bights of Benin and Biafra. In light of the foregoing, it is important to note that slavery is not new to Africa, prior to when the European first visited the continent and that slave trade has devastating effect on human capital development and also a violation of human right. From a human rights perspective, the slaves were subjected to gross human rights violations from the initial process of "capturing, torturing, transporting and imprisoning" the slave trade was the most inhumane treatment ever meted out by one human race against another. The most recent authoritative document drafted by the United Nations Millennium Declaration was to celebrate the primacy of human rights in the development system. The human person is regarded as the centre of both human rights and human development. The realisation of dignity and worth is the goal that is essential for human capital development and human rights in every individual or group of individuals. As observed in chapter two of this thesis,

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History of the Atlantic Slaves Trade, ed. H.A. Gemery and J.S. Hogendorn (New York: Academic Press, 1979) 23-76, in which the data is compiled almost exclusively from sources in the trading centers of North Africa.

[219] Benin maintained restrictions on the slave trade for roughly 150 years, re-entering the slave market only in the last decades of the seventeenth century. Even from this point, however, Benin‟s contribution to the transatlantic slave trade remained minimal relative to the great slaving ports on the Bights of Benin and Biafra. See A.F.C Ryder, Benin and the Europeans 1485-1897 (London: Longman, 1969) for a discussion of Benin‟s relationship with European traders.

that "human rights based approach to development (HRBA) sees development and human rights as pursuing the same objectives-defined as the realisation of human rights and respect of human rights principles in the process of development". In addition, According to Lovejoy[220], the total number of slaves exported between 1600 and 1800 the Bight of Benin's port shipped out 1,473,100 slaves, with over 1.2 million of these being dispatched in the eighteenth century alone. Further, between 1676 and 1730, the Bight of Benin shipped 730,000 slaves, a remarkable 42 percent of all the slaves taken from Africa during this period[221]. In light of the above, the continent of Africa was robbed of her human capital development due to African citizens sent across the Sahara and the Trans-Atlantic route. According to Wilson[222], the above-stated convention "have not only engaged the attention of the world community but have in the recent past, penetrated the international dialogue, become an active ingredient in interstate relations and has burst the sacred bounds of national sovereignty". Human rights, as stated above, have developed and grown over the years at the global level, just as the contemporary conception and content of human rights have been energised and strengthened by certain historical development.

Through the significant expansion, Nigeria as a nation-state has kept its important position in the slave trade during the era. During this period, a significant number of slaves from Nigeria were sold compared to other African countries, while in the nineteenth century, perhaps 30 percent of all slaves sent across the Atlantic came from Nigeria. More than 3.5 million slaves were shipped from Nigeria to the Americas throughout the whole trade. Most of these slaves were Igbo and Yoruba in the South, with significant concentrations of Hausa, Ibibio, and other ethnic groups in the North. In addition, during this era, a significant number of slaves

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[220] See calculation from Lovejoy, Transformation in Slavery, 51, 56
[221] Ibid
[222] Wilson. T.W. "A Bedrock of Consensus of Human Dignity", in The Internationalisation of Human Rights ed. A.H. Henkin, New York, Aspen Institute for Humanistic Studies, 19709.

were exported by the Aro and Oyo confederacy due to war in the South, which is also due to the collapse of the Oyo in the 1820s.[223]

During the sixteenth and seventeenth centuries, when one looks at Africa and Nigeria as a third-world country that relies on charity or western donors to survive, one thinks of the continent as poor third-world countries of the world. However, Africa is a continent rich in human and material resources eager to trade in "leather goods, gold, copper, and ivory for Europeans pots, alcohol, pans and guns". Also, the gap between Africa and Europe in terms of development at the beginning of the Trans-Atlantic Slaves Trade in the fifteenth century was not much, and as such, Kwame Nkrumah of Ghana states that:

> "At the time when Europe passed into its industrial revolution, there was a considerably narrower gap of development between the continents. But with every step in the evolution of productive methods and the increased profits drawn from the more and more shrewd investment in manufacturing equipment and base metal production, the gap widened by leaps and bounds"[224]

According to Okafor[225], Africa is responsible for the level of development recorded in Western Europe from the fifteenth century likewise the "Western Europe significantly played a major role in the underdevelopment in the continent of Africa, Nigeria inclusive". In light of the above, the negative impact of slave trade undermined the development process in Africa and Nigeria. Further, slave trade in the Pre-colonial Era, apart from being responsible for retarding the development process in Africa and Nigeria, also brings about "insecurity and destabilisation" for 500 years and was responsible for an alarming rate of "depopulation" in

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[223] See Sampson. J. (2016)" Nigeria History from Precolonial History from year 1500" Sonit Education Academy: Abidjan.

[224] Nkrumah. K. (1965)" Neo-colonialism: the last stage of imperialism". Ix.

[225]Okafor. E.E (1993), "New evidence on early iron smelting from Southern Eastern Nigeria," in the The Archaelogy of Africa: Food, Metals and Towns, ed. T. Shaw, P. Sinclair, B. Andah, and A. Okpoko (London: Routledge, 1993), 432-48; and Okafor. E.E (2000), "Opi: the earliest iron smelting site in Africa," Nigerian Heritage, 9. 146.

Africa. In addition, some commentators argued that the trade in slaves from 650 to 1600 AD across the Sahara amounted to 4, 820,000 and that between 3000 and 8000, according to Lovejoy[226]. There are contentions among different commentators on African population studies in relation to the precise numbers of slaves shipped during the Atlantic slave trade. However, there is a consensus agreement regarding the negative effect of stagnation on the development process due to slave trade on the continent of Africa and Nigeria inclusive. Apart from depopulating Africa, the continent was also divided into an array of stable "feudal states, empires and kingdoms as a result of the Europeans arrival".

Further, from a human rights perspective, according to Donnelly[227],

there are different academic views about human rights in the pre-colonial era in Nigeria. He argued that there are basically two major categories of scholars, the first being the positivist discussed in chapter two that based their understanding that law is the command of the sovereign in an organised civil state. Mutua[228] on the other hand, opposes this notion. The positivists argued that the continent lacks any law when viewed from the positivist sense in pre-colonial or traditional African societies. In other words, they compared the European State with what is obtainable in the continent of Africa and concluded that African societies did not possess any law in positivist terms. According to Dada[229], reference to human rights in traditional or pre-colonial Nigeria refers to "the state of human rights in the various socio-political formations which existed in present-day Nigeria before 1914".

In light of the foregoing, one key question comes into play: Did Nigeria know or operate a system of human rights in pre-colonial or traditional African societies? Or better still, did the

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[226] See Lovejoy, Transformation in Slavery. 51, 56.
[227] Donnelly. J. (2013) Universal Human Rights in Theory and Practice. 93-103, 106-112.
[228] Mutua. M (2001) "Savage, Victims, and Saviours: The Metaphor of Human Rights" 42 Harv Int'l LJ 201-245.
[229] See Dada. J.A. (2013) "Human Rights Protection in Nigeria: The Past, the Present and Goals for Role Actors for the Future. Journal of Law, Policy and Globalisation.Vol. 14.

alien traditional societies which make up present-day Nigeria operate or experienced the notion of human rights? In the pre-colonial era, to what extent were human rights recognised and protected? According to Lloyd[230]

who argued that African societies lack laws due to the level of development comparable to the Western world. On this premise, he concluded that in the pre-colonial era or traditional African societies, the notion of human rights is considered strange. The growth of human rights was undoubtedly curbed in Africa from the foregoing historical accounts; however, in pre-colonial or traditional African societies, one cannot deny the existence of some measure of protection of human rights. According to Eze[231] "there are no coherent data resulting from few legal studies which was conducted into pre-colonial history of Africa upon which a scientific examination and analysis of human rights promotion and protection in that epoch could be predicated". Wilson[232] however states that "the argument that traditional societies did not possess a legal system was based either on inadequate information or lack of appreciation of the true nature of pre-colonial African societies. For instance, many North African countries like Egypt, Algeria, Libya and even Ethiopia were, by all standard civilised nations before the advent of colonialism in Africa. Without doubt, the preponderance of opinion tilts kin favour of the thesis that the notion of human rights was not alien to traditional Africa societies".

In addition, it is important to note that certain preliminary but important points need to be made before examining the quality and content of human rights recognised and protected in pre-colonial Nigeria. First, according to Eze[233], there is a point of divergence between "tradition and Euro-American" conceptions of human rights, although the existence of human

[230]LIoyd. D (1972)" Introduction to Jurisprudence, London: Stevens and Sons" 566
[231]Eze.O.C. (1984)" Human Rights in Africa, some selected Problems, Lagos: Nigeria Institute of International Affairs".
[232] Wilson Jnr. T.W. (1979)" A Bedrock of Consensus of Human Dignity", in The Internationalisation of Human Rights ed. A.H. Henkin, New York, Aspen Institute for Humanistic Studies 47.
[233] Ibid at 178

rights in Nigeria pre-colonial era cannot be denied. In the Euro-American conception, human rights are regarded as "universalistic" in nature. In other words, human rights is applicable to all human beings without "distinction to race, colour, sex, language and religion" and in the traditional societies, human right existed within particular group or tribe. Secondly, during the pre-colonial era in Nigeria, the catalogue and scope of human rights recognised and protected cannot be compared to what was obtainable with those of Euro-American societies as a result of the rudimentary nature and development of the socio-political relation of the era. In light of the foregoing, Eze[234] argued that the level of protection accorded to human rights in pre-colonial Africa societies; however, this notion cannot be compared to the universalistic nature of the "Euro-American" societies even though laws remarkably influenced rights recognised in pre-colonial or traditional Nigeria societies, customs, and beliefs of the individual group and tribe. There existed gross denials and violations of human rights in Nigeria and African societies irrespective of how romantic the above picture appears. According to Eze[235] "traditional African societies generally know of institutionalised derogation from human rights. In some cases, enjoyment of rights has to turn on certain criteria like sex, social status, age and so on. It was on this basis that certain categories of persons, women and children particularly are barred from belonging to certain traditional cults and organisation" In light of the foregoing, there is nothing strange or contradictory according to Dada[236] who states that "The 1776 Declaration of independence did not totally exterminate violation of human rights by the Americana as they continued the practice of slavery, racial segregation and dehumanising treatment of blacks. Similarly, the 1789 Declaration of the Rights of man and citizen did not keep France from subsequently amassing a vast colonial empire among the people of colour and from enslaving the blacks". It is

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[234] Ibid at 180
[235] Ibid at 181
[236] See Dada. J. (2013)" Human Rights Protection in Nigeria: The Past, the Present and Goals for Role Actors for the Future" Journal of Law, Policy and Globalisation.Vol.14.

important to note that in the pre-colonial era, Africa and Nigeria, in particular, had notions of human rights and not just human dignity. In other words, based on recognised and enforceable customary laws, they had economic and social systems. The concept of development in African and Nigeria could be understood within this context. This thesis hereby concludes that the existence of human rights in the pre-colonial era cannot be dismissed or denied, notwithstanding arrays of gross violations of human rights in "traditional" Nigeria societies. Africa and Nigeria, in particular, was further "plunged" into another dehumanising and exploitative condition while still nursing the wounds inflicted as a result of the "abhorrent and humiliating" slave trade. The level of underdevelopment, socio-economic disparities, and gross human rights violations resulting from the slave trade occasioned on the continent of Africa, particularly during the pre-colonial era, has drawn the attention of the international community. The next section evaluates human rights and poor human capital development in the colonial era.

4.3 HUMAN RIGHTS AND POOR HUMAN CAPITAL INVESTMENT DURING THE COLONIAL ERA

The British colonial masters grossly violated the rights of the people in Nigeria in an effort to consolidate and expand their power. In light of this, it is commonly believed that human rights violations in Nigeria have colonial roots as a result of the country"s long history of violation of human rights. Colonial rule by the British brought many changes to the societies of Nigeria. Charged with the tasks of governing the territories of Nigeria, expanding the commerce of the country, and promoting "progress" and "civilisation" for the people they considered inferior and backward[237]. According to Eno[238], Colonialism is "is a racially based system of political, economic, and cultural domination forcibly imposed by technologically superior foreign minority on an indigenous majority. It relied on unfounded scientific assumptions about white superiority and that the nation state and an industrial capital economy were the most advanced forms of human organisation and assumed an inmate moral inferiority on the part of Africans". The colonial economy's exploitative nature ensured that very little sustainable development occurred due to poor human capital development or investment during the colonial period. Neither the profit-mongering European firm nor the stingy colonial government was willing to invest in the long-term development of Nigeria during the Second World War. European firms took their profits back to Europe, enriching shareholders at the expense of exploited Nigeria labor[239]. Mutua[240] opined that colonialism "fundamentally restructured the socio-economic and political landscapes while distorting the autonomous nature of development in Africa, the human dignity and cultural norms and values of Africans". Colonialism involves force, followed by "direct and indirect" rule. The

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[237]Falola.T. and Heaton. M. (2014)" A History of Nigeria" Cambridge University Press: United Kingdom
[238]Eno.W.R. (2008)" Human Rights, Human Development, and Peace: Inseparable Ingredients in African"s Quest for Prosperity"
[239] See Ekundare, An Economic History of Nigeria, 175-6.
[240] See Mutua (2001) Harv International law journal 156

indirect rule regimes in the Southern and Northern protectorates developed separately and, as a result, differed significantly. European education remained primarily limited to Southern Nigeria, partly because European education was most useful in Southern Nigeria and because European education remained the domain of the Christian missions. As of 1921, there were 2,200 schools in Southern Nigeria, and over 90 percent of these schools received no financial assistance from the colonial government[241]. Only a handful of mission schools were in operation in Northern Nigeria, where Lugard and his successors had restricted missionary enterprise on the grounds of Islamic cultural preservation. Enrolment in non-Quranic primary schools in Northern Nigeria stood at 2 percent of the level in Southern Nigeria in 1913[242]. According to Ikome[243], colonialism imposed "far-reaching changes on the socio-political and economic context of Nigeria and Africa: new boundaries, European legal systems, languages, and religions. The new boundaries and ethnic divisions permanently altered the geopolitical make-up of the continent, leaving a legacy of haphazard and irresponsibly drawn cleavages". Further, to maintain their grip on the territories, the colonial masters adopt the use of force to assert their might. In other words, colonialism is responsible for underdevelopment in Nigeria and Africa because they denied the people the right to "participate" in their governance; therefore, human rights and development were not meant for Africa and Nigeria during the colonial rule.

In addition, from a human rights perspective, a dismal record of human rights recognition and protection can be seen during colonial administration in Nigeria as in most colonised countries. Nigerian societies become subject to the political, economic, and social domination

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[241]Fafunwa. B. A. (1974) History of Education in Nigeria (London: George Allen and Unwin)110-112. Lugard ,s education Ordinance, passed in 1916, did allow for schools to receive grants-in-aid from the government, but, in order to receive this money, schools had to agree to government inspections and to restrict their religious teachings. Most mission schools declined the offer.

[242] See Zachernuk, Colonial Subjects, 50; Fafunwa, History of Education, 112, says that primary school enrolment in Southern Nigeria in 1913 was 35,716, compared to a mere 1,131 in Northern Nigeria.

[243]Ikome.F.N. (2004)" The Inviolability of Africa's Colonial Boundaries: Lessons from the Cameroon-Nigeria border conflict" Institute for Global Dialogue Occasional Paper No. 47.

and subjugation resulting from the advent of the colonialist, which is responsible for the imposition of European education and values. In light of the foregoing, Read[244] opined:

> "Colonial rule was essentially authoritarian and even the introduction of English law as the basis for local legal systems did not result in the colonial subjects enjoying the full rights of liberty, due process, free speech and the rest which the common law is said to guarantee to the Englishman himself."

In support of Read"'s argument Eze opined that:

> "Alien rule was a negation of fundamental human rights of self-determination and that the colonial system, in spite of declarations to the contrary, was racist and authoritarian. It encouraged ethnic and class differentiation, and even if It could be construed as a higher level of development than the feudal slave systems with which it co-existed, it was essentially in egalitarian and antithetical to human rights".

The miners in the Nigeria coal mine, for example, in 1949 was denied the right to strike under the trade union. Also, by converting the ruler into a single native authority, reinforcing the authoritarian aspect of the power of the chiefs in certain situations, the principle of check and balance in accordance with the powers of the traditional rulers was destroyed. The denial of the right to self-determination perhaps is the most serious infraction on human rights in the colonial period as espoused in the various international instruments on human rights, particularly the Universal Declaration of Human Rights of 1948. The devastating effect of colonialism is not to be construed to mean that it lacks any positive impact on human rights. Colonialism is not without an admirable and positive influence on human rights, particularly economic, social, and cultural rights.

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[244]Read.J. (1973)" Bills of Rights in The Third World-Some Commonwealth Experiences" in Verfassung and Recht in Ubersee ed: H.Kruger, I. Heft, I Quartal, 1973 at 29.

4.4   Human Rights and Poor Human Capital Investment in the Post-Colonial Era

> "We are determined to be free. We want education. We want the
> right to earn a decent living, the right to express our thoughts and
> emotions, to adopt and create forms of beauty.   We will fight in
> every way we can for freedom, democracy, and social
> betterment"[245].

In light of the above, it is evident that human right is relevance in the struggle for attaining

"independence" and the right to development. African nationalism and Pan-Africanism are

regarded as the origin of human rights and development in contemporary African societies.

Article[246] (1) an important tool in International Covenant and Economic, Social and Cultural

Rights (ICESCR) which guarantees the right of peoples to self-determination, a right that

cannot, however, be asserted as an individual human right which was omitted from the

"Universal Declaration" was used by African nationalists to freely determine their political

status and their economic, social and cultural development. Poor human capital development

in Nigeria really occurred when subsequent governments encountered reduced oil revenues.

Faced with the daunting task of collecting taxes with weak property rights and political

instability, governments instead cut social spending and, like many African countries,

borrowed liberally from abroad, according to Asiodu[247]. Nigeria and other countries in the

continent incurred huge debts to foreign creditors at an astonishing pace during the 1070s and

1980s. In the early 1980s, Nigeria‟s foreign debt to export ratio increased more than fivefold.

By the end of the 1990s, Nigeria and other African countries were spending 15 percent of all

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[245] See Ayittey. G. (1992)" Africa Betrayed" New York: St Martin‟s Press cited in GBN at 199.
[246] See the position of the Human Rights Committee on the corresponding guarantee in CCPR.
[247] Asiodu, P. (2000)," Budget Implementation." NCEMA Policy Analysis Series No. 6(1):7-10.

export earnings paying off debts, according to DeLancey[248]. When Nigeria transitioned to democracy in 1999, it had more debt in absolute dollars than any other country in Africa: 15 percent of its continent"s total. For nearly seventeen years, creditors provided generous loans to a succession of Nigeria government which ended in private pockets[249].

In addition, from a human rights perspective, considerable efforts have been made upon gaining full political independence to promote and protect human rights in Nigeria. 1960, 1963, 1979, and 1999 are all independence and post-independence constitution that guarantee human rights and instituted mechanisms to ensure their enforcement. The constitution also protects the basic civil and political rights guaranteed in the global instruments. Under the Fundamental Objectives and Directives of State Policy, the political, economic, and social objectives contained therein are directed towards securing the realisation of the economic, social, and cultural rights articulated in the Universal Declaration of Human Rights, 1948 and related instrument. In light of Nigeria's continuous development challenges, the country signed the Millennium Development Goals (MDGs) in September 2000; Nigeria was among the 189 countries of the world that endorsed the United Nations Millennium Declaration in New York. This led to the adoption of the eight time-bound Millennium Development Goals (MDGs) with several targets and indicators to be achieved by 2015. However, due to limitations and other reasons, many objectives were not achieved at the expiration of 2015. According to Wysokinska[250] "Although significant achievements have been recorded with respect to the MDGs targets worldwide, progress has been uneven across regions and countries, leaving significant gaps. Millions of people are being left behind, especially the

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[248] DeLancey, V. (2001)," The Economics of Africa." In Understanding Contemporary Africa, edited by April A. Gordon and Donald L. Gordon, 101-42. Boulder, CO: Lynne Rienner.

[249] Chevillard, N. (2001)," Nigeria"s External Debt: Evolution, Mix and Current Issues." In Nigeria during the Abacha Years, 1993-1998, edited by Daniel C. Bach, Yann Lebeau and „Kunle Amuwo, 219-234. Ibadan, Nigeria: Instutut Francais de Recherche en Afrique.

[250] Wysokinsa. Z. (2017)" Millennium Development Goals/UN and Sustainable Development Goals/UN as Instruments for Realising Sustainable Development Concepts in the Global Economy". Comparative Economic Research 20 (1): 101-118.

poorest and those disadvantage because of their sex, age, disability, ethnicity, or geographic location".

4.5. The Implementation of the (SDGS) in Nigeria

The international community, through the United Nations, in collaborations with the Heads of States and Governments of the 193 Member Nations, launched the Sustainable Development Goals (SDGs) as a new development agenda following the expiration of the implementation timeline of the Millennium Development Goals (MDGs) in 2015. The concept of SDGs and human rights has been discussed in chapter 2 of this thesis and, therefore, unnecessary here.

To avoid repeating the failure of the MDGs, the present administration of President Mohamed Buhari has affirmed support towards achieving the SDGs in Nigeria. Accordingly, the agenda for implementing SDGs has been domesticated. An SDGs initiative adopted that comprises different levels of staff from various federal government ministries relevant to the implementation of SDGs. Also, a major implementing actor of the SDGs programme is the office of the Senior Special Assistant to the President on Sustainable Development Goals (SSAP-SDGs) was reconstituted and designated to address Nigeria's development challenges. It is imperative to state here that this thesis will only focus on SDG 3 and 4, known as human capital development and relevant indicators, to answer the first research questions.

Further, the role of the SSA-SDGs[251] is to consult regularly with relevant stakeholders, for instance, local government, private sectors, public sector, state government, and civil society organisations. The implementation will be conducted in three phases, according to Mcdickson[252], Phase 1 covers between 2016-2020, phase 2 covers between 2020-2026, and

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[251] See the document relating to the Office of the Senior Special Assistant to the President on Sustainable Development Goals (2017). Available at http://www.sdgs.gov.ng/about-sdgs/units/#comm.Accessed 20 June 2019.

[252] McDickson.J. (2016)" Sustainable Development Goals (SDGs)-The Nigeria Way". Available at https://www.sdgs.gov.ng/sustainable-development-goals-sdgs-nigeria-way.Accessed 20 June 2019.

phases 3 is the last stage between 2026-2030 and ensures full coverage in the most challenging area and, most importantly, ensure that no one is left behind. In light of the foregoing, what are the barriers to implementing SDGs in Nigeria?

4.6. Barriers to the Implementations of SDGs in Nigeria

Like any other concept, Sustainable Development Goals (SDGs) provide both opportunities and challenges in Nigeria due to high implementation costs though it has a long time benefit. Nigeria must translate each relevant SDG into National Plans of Action to address its development challenges. There are ten major barriers or challenges that need to be addressed in order to be able to implement the SDGs in Nigeria. These are:

4.6.1 Militancy in the Niger Delta in the South

The key component of the Niger Delta conflict is the feeling of being politically oppressed among the ethnic minorities in Nigeria. According to Wood[253] "The demand access to resource control offer a common platform for different militant groups, who may share the common perceptions of exploitation and limited spaces for political participation and this in turn leads to the porous boundaries of conflict, violence and politics inform the nature of state response to social mobilisation". The resistance or conflict in the Niger Delta region is a result of the lack of basic socio-economic amenities in the communities, according to Timidi[254] that leads to the underdevelopment of the region.

> "We have been fighting for the course of the Niger Delta for years.
> People like Isaac Adaka Boro came on board, he died, and Ken
> Saro Wiwa came […] you know we are the people that are feeding

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[253]Wood. J. E. (2015)" Social Mobilisation and Violence in Civil War and their Social Legacies in: Donatella Della Porta and M. Diani, eds. Political Science, Comparative Politics, Political Behaviour. Oxford: Oxford University Press.
[254] See Timidi an active militia unemployed school drop-out in his 30 statement cited in Tantua.B. and Kamruzzaman. P. (2016)" Revisiting Militancy:Examining Niger Delta.

the whole country, but if you come to my community, there is no electricity, no road, no drinking water, nothing, and nothing"[255]

According to Boas[256], local oil-bearing communities engendered a shift from a non-violence approach to violence to stand against the state's repression and the pervasive culture of impunity. Pato[257] in relation to the demand for development in the Niger Delta Region opined that:

> "The picture we gathered from that moment is that the government was not open to peaceful negotiation and resolution of the crisis. It is the introduction of violence by the Ijaw youths that got attention from the government. The government does not believe in advocacy. So the process for advocacy have not helped the engagement of communities in the Niger Delta with the federal government"

Ololo an active member of the militia also agreed with Pato above that what eventually leads to arms confrontation was as a result of the repression from state brutality as response to protest and agitation by the Ijaw youth.

> "We are fighting with the government to let them know about the Niger Delta situation, we cannot go to Abuja to fight them, so we have to destroy pipelines and embark on illegal bunkering business. The federal government got involved in Ogele and since then we started shooting at them too"[258]

In light of the foregoing, peace, security and stability are the essential preconditions for development in Nigeria and anywhere in the world. In its quest to rescue the country from the doldrums of insecurity and underdevelopment that Nigeria has been grappling with due to the

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[255] Ibid

[256]Boas.M. (2012)" MEND: The Nature of an Insurgency". Available at http://www.e-ir.info/2012/05/11/mend-the-nature-of-an-insurgency/.Acessed 22 June 2019.

[257] Pato an active member of the Militia cited in Tantua. B. and Kamruzzaman.P. (2016)" Revisiting Militancy:Examining Niger Delta.

[258] Ololo an active member of the militia group cited in Tantua.B. and Kamruzzaman (2016)" Revisiting Militancy: Examining Niger Delat.

myriads of security challenges, the country needs to adopt the human rights-based approach to development on the various comment by the Ijaw militancy group. Security is vital for sustainable development in Nigeria because it provides an integrated response to the complex societal, economic, and governance challenges that directly or disproportionately affect the people. The activities of blowing up the pipeline due to the conflict between the government and the Ijaw youth resulted in most state government's inability to workers' salaries and other developmental projects on hold, let alone sustain them.

4.6.2. Conflict and Violent Extremism in the North

The British colonial brought together over 400 ethnic and lingo-cultural groups. It also brought together people of different religious beliefs. The major religions among Nigerians are African Traditional Religion (ATR), Islam and Christianity. Among the fears expressed by various Nigerian groups included religious intolerance.[259] The Willink Commission, which investigated the various fears, found out that there were allegations of religious intolerance against majority groups in some regions. In the Northern region, the Commission found that Christian bodies had expressed fears about the future. They had clearly stated:

> "...that they did not wish for political separation, they did express
> the hope that the new constitution would embody a statement on
> human rights which would give minorities the freedom which to
> practise their religion and which would specifically lay down that
> there should be no obstacle to a person changing his religion"[260]

The human rights clause in the constitution only temporarily assuaged the fears of religious discrimination among minority religious groups but the matter did not die there. The major manifestation of religious intolerance among Nigerian groups in this period was the Sharia

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[259] See the Report of the Commission Appointed to Enquire into the Fear of Minorities and the Means of Allaying Them, CMNd.505 (1958).
[260] Ibid., P. A6

debate, which began at the Constitution Drafting Committee stage of Nigeria‟s transition to democratic rule. In the end, a compromise was found. A Sharia[261] Court of Appeal was to be established in any state, which so desired. Religion, given its numerous adherents and common belief, helps influence the progress to a better world by ensuring the dignity of the human person. The dialogue of religion and development agencies set up in 1998 by the World Faiths Development Dialogue (WFDD), such as the World Bank and the International Monetary Fund (IMF), continued to dialogue between these two bodies. The need for closer collaboration of the World Bank and other development institutions was put forward by Wolfensohn[262], the former President of the World Bank where he stated that:

> "Religion is an omnipresent and seamless part of daily life, taking an Infinite variety of forms that are part of the distinctive quality of each community. Religion could thus not be seen as something apart and personal. It is, rather, a dimension of life that suffuses whatever people do. Religion has an effect on many people‟s attitudes to everything, including such matters as savings, investment and a host of economic decisions. It influences area we had come to see as vital for successful development, like schooling, gender quality, and approaches to health care. In short, religion could be an important driver of change, even as it could be a break to progress".

In light of the foregoing, there is a realisation that the religious faith as a result of such dialogue will help shape people view of development and helps to bring about development outcomes. However, religion in Nigeria has been inhibiting sustainable development in spite

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[261] See the Federal Republic of Nigeria, Constitution of the Federal Republic of Nigeria, 1979 (Lagos: Government Printer, 1979) Section 242(1).
[262]Wolfenson.D.J. (2001) "Religion and Development"

of their laudable involvement in promoting progress. The table[263] below illustrate the numbers of causality involved in religious violence between 1980 – 2012.

Date	Location	Numbers of causality
May 1980	Zaria Kaduna State	3124
December 18-29 (1980)	Yan-Awaki Ward in Kano State	Riots by Maitatsine sect. 4,177 people died. Extensive destruction of property..
October 29-30 (1982)	Bullumkutu, Maiduguri (Borno State)	118
October 29-30 (1982)	Kano State	Muslim demonstrator burnt down Churches.
February 27- March 5, 1984	Dobeli Ward. Jimeta-Yola former Gongola State	Maitatsine sect. 568 people died. Wanton destruction of property.
April 26-28 (1985)	Pantami ward, Gombe (Bauchi State)	Maitatsine sect. 105 people died. Extensive destruction of property.
March 1986	Ilorin (Kwara state)	Muslims and Christians clashed during a Christian procession at Easter.
May 1986	Ibadan, University of Ibadan (Oyo State)	Demonstrations by Muslims in which they burnt the figure of the Risen Christ in the Chapel of Resurrection University of Ibadan.
March 1987	Kafanchan (Kaduna State)	Clashes between Muslims and Christians at the College of Education, Kafanchan. Loss of some lives and the burning of some Mosques by Christians and native Kajes.

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[263]Elaigwu. I.J. (2007)" The Politics of Federalism in Nigeria" Adonis and Abbey Publishers Limited: United Kingdom; see also Onuoha. F. (2010)" The state and management of religious violence in Nigeria: A case of the July 2009 Boko Haram revolt. Ph.D Seminar paper presented to the department of political science, University of Nigeria, Nsukka, Nigeria. See also Ohuoha. F.C. (2012)" The audacity of the Boko Haram: Background, analysis and emerging trend. Security Journal 25. pp.134-151.

March 1987	Katsina Funtun, Zaria, Gusua and Kaduna and Sokoto (former Kaduna State)	Wave of religious riots in which Muslims burnt down numerous church buildings and damaged property belonging to Christians. Many lives were lost.
February 1988	Kaduna, Kaduna Polytechnic (Kaduna State)	Religious riots, ostensibly among students Foundation walls of the Christian Chapel were destroyed.
April 1991	Katsina (Katsina State)	Religious violence spearheaded by Malam Yahaya Yakubu, leader of the fundamentalist Shi"ite sect in Katsina. It was a protest over a blasphemous publication in Fun Times. Several lives were lost and property destroyed.
April 1991	Tafawa Balewa (Bauchi State)	Started as a quarrel between a Fulani man and a Sayawa meat in Tafawa Belewa..Escalated into full blown violence and later took the colouring of a religious war in Bauchi. Several lives were lost and property valued over hundreds of million Naira was destroyed.
October 1991	Kano (Kano State)	A peaceful procession initiated by the Izala sect to halt Rev. Reinhard Bonnke from having a crusade in Kano later degenerated into a very violent and bloody religious confrontation. Thousands of lives were lost and property valued in millions of Naira was destroyed.
May 1992	ZangoKataf, Zaria Kaduna Ikara (Kaduna State)	A communal feud between the Katafs and the Hausas later took the dimension of inter-religious war between Muslims and Christians in other major cities of Kaduna State. Several lives were lost and property was destroyed.
January 1993	Funtua (Katsina State)	The Kalakato religious sect assaulted the Village Head and burnt down Police

		vehicle. Lives and property were also lost
December 1994	Kano (Kano State)	Communal violence triggered off by the beheading of a Christian who had allegedly desecrated the Qur'an
May 1995	Kano (Kano State)	Communal violence triggered off by quarrel between Hausa and Ibo boys led to the burning of houses churches and shops and killing of innocent people.
May 1995	Abule-Taylor (Lagos State	A bloody clash between the police and members of the dreaded Maitatsine sect
July 1, 1999	Ogun State	The violence resulted from the killing of a Hausa woman by the traditional oro worshippers for violating traditional rites.
July 22, 1999	Sagamu (Ogun State)	The reprisal to the Sagamu crisis above. The number of causality not reported
December 20, 1999	Ilorin (Kwara State)	Muslim fundamentalists attacked and destroy over 14 churches in Ilorin. Properties worth several millions of naira were destroyed and the number of causality not specified.
February 28, 2000	Kaduna (Kaduna State)	Kaduna city exploded in violence as Muslim and Christian extremists and other hoodlums clashed over the proposal to introduced Sharia. An estimated 3000 lives were lost.
February 29, 2000	Abia (Abia State)	An estimated 450 people died in Abia as a reprisal for the Kaduna crisis
Sept 8, 2000	Kaltungo (Gombe State)	A religious violence that was sparked off by the state Sharia implementation committee
December 2, 2000	Hadejia (Jigawa State)	A sectarian disturbance that was caused by a debate between Muslims and Christians. There was wanton destruction of worship places.
September 7, 2001	Jos (Plateau State)	A violent ethnic-religious crisis between Muslim/Hausa-

		Fulani and Christian/indigenes. The subject of discord between the Jasawa Development Association and Plateau Youth Council was originally over a political appointment in Jos North LGC.
September 15, 2001	Onitsha (Anambra State)	A reprisal killing of Northerners in Onitsha following the Jos crisis in which several Igbos were killed.
October 12, 2001	Kano (Kano State)	Over 150 people were killed during a peaceful anti-American protest over the bombing of Afghanistan turned violent, taking ethnic and religious tone. It degenerated into uncontrollable violence which lives and damaged property and places of worship.
November 2, 2001	Gwantu Crisis (Kaduna State)	Places of worship were destroyed as a result of a clash that started on a political ground over the relocation of Local Government Headquarters later took on ethno-religious dimension.
May 2, 2002	Jos Mayhem (Plateau State)	Ethno-religious crisis that resulted into mayhem following Peoples Democratic Party (PDP) congress.
June 2002	YelwaShendam (Plateau State)	An ethno-religious fracas between the native people 9predominantly Christians) and Hausa settlers (predominantly Muslims)
November 21, 2002	Kaduna (Kaduna State)	Over 250 were killed as a result of a violent protest in Kaduna following a Newspaper editorial on hosting of beauty pageant in Nigeria.
March 2003	Langtang North. Wase and Kanam L.G.C. of (Plateau State)	Fresh etho-religious crisis in the three neighbouring LGC.

January 2004	Yobe State	Men of the Nigeria Army killed five and arrested several of the Militant Islamic group operating under the name Muhajirun who launched a Taliban-like attack on the police.
April 3, 2004	Makarfi (Kaduna State)	Over an alleged desecration of the Qur''an by a Christian teenager a religious protest occurred in makarfi town.
May 1, 2004	YelwaShendam (Plateau State)	500 lives and many women and children were abducted as a result of ethno-religious mayhem by suspected Taroh militia. This was a revenge killing.
May 12, 2004	Kano (Kano State)	Over 200 people were feared dead
June 8, 2004	Numan (Adamawa State)	Over 50 people were killed and the traditional ruler of the area deposed as a result of ethno-religious crises in Numan over the construction of a mosque''s minaret over the Human Bachama''s palace.
January 16, 2005	Ipakodo (Lagos State)	Over 50 lives were lost
August 20, 2005	Isale-Eko area of Lagos Island Local Government (Lagos State)	Over 30 Muslim youth were killed
February 18, 2006	Borno	Over 50 people killed, 30 churches burnt , 200 shops, 50 houses and 100 vehicles destroyed.
November 28, 2008	Plateau	Over 710
February 21, 2009	Bauchi	Over 11 people were killed
July, 26-30 2009	Bauchi, Borno, Kano and Yobe	Over 700 people killed, 3500 persons internally displaced, 392 women widowed, 1264 children orphaned and several properties destroyed by Boko Haram sect on Christians
December 29, 2009	Bauchi	Over 1000 people internally displaced, 38 lives were lost and 20 members of Kala-Kato sect arrested who unleashed

		religious violence on Christians
January 17-20 2010	Plateau	Over 4000 persons displaced, 550 were killed due to the resurgence of religious crisis in Jos
March 7, 2010	Plateau	550
March 13, 2010	Plateau	13
April 11, 2010	Plateau	153
May 22, 2010	Plateau	3 were killed as a result of ethno-religious crisis
July 17, 2010	Plateau	8
August 29, 2011	Plateau	20
August 26, 2011	United Nations (Abuja)	23 people were killed.
November 5, 2011	Potiskum and Maiduguri	Over 90 people were killed and several churches and police stations destroyed.
December 25, 2011	Madala Niger State	45 people were killed, 80 others receiving treatment for various degrees of injuries sustained as a result of bombs that were allegedly planted at the church‟s parking lot.
January 5-6, 2012	Gombe (Gombe State)	6 people were killed and many others were injured by gunmen who stormed a Deeper life church
January 5-6, 2012	Mubi (Adamawa State)	22 people were killed and a dozen were injured by suspected Boko Haram militants.

In addition, according to CFR[264] article dated August (2018) based on the analysis of data compiled by its Nigeria Security Tracker and ACLED stated that:

"From June 2011 through June 2018, the NST documented 2,021 incidents involving Boko Haram, in which 37,530 people were

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[264] See CRF, Boko Haram‟S Deadly Impact, 20 August 2018, url. Cited in Home Office Country Policy and Information Note Nigeria: Boko Haram January 2019.

killed, nearly double the conventional cited estimate of twenty thousand. Over the same period, ACLED identified 3,346 incidents, in which 34,261 people were killed. Both totals reflect deaths of alleged Boko Haram fighters, Government forces, and civilians combined. Though ACLED tends toward lower causality estimates and the NST higher estimates, both identify the same progression: the conflict, beginning in 2012, escalated quickly and peaked in 2014-2015.Level of violence declined in 2016, following a major Nigerian military campaign to recover Boko Haram-occupied territory launched in late 2014 that continued through the following year. Troops from Cameroon, Chad, and Niger as well as some mercenaries played a major role in this campaign"

It is evident from the above statistical data that conflict and violent extremism particularly in the North impedes sustainable development. Religious fundamentalism is abhorrent because it"s an abuse of religion whether arising from Christianity, Islam or African traditional religions. It is therefore important for religion to be integrated into development agenda for SDGs in order to address Nigeria development challenges.

4.6.3   Limited Financial Capacity for Investment in SDGS Related Activities

The financial capacity or investment required for implementing the (SDGs 3 and 4) in Nigeria is enormous, and the dependence on donor agencies has not produced the desired results for various reasons. For the realisation of human capital development (SDGs 3 and 4) in Nigeria, the availability of resources and their mobilisation is a critical factor that has to be considered due to the programmes' capital-intensive nature. Presently, the country is undergoing an economic recession due to her over-reliance on oil revenues currently dwindling. The increased revenue from non-oil sectors created the avenue to cushion the effect of the sharp drop in oil revenue from the fiscal reforms, and grant or aid is a piece of evidence that the country's economy is growing and also enable increased her ability to borrow to implement planned projects and programmes for sustainable development. According to Udoma[265]" in his public presentation, the Hon Minister of Budget and National Planning says that "With an increase of 28 percent total retained revenue available for budget between 2016 and 2017, the country's estimated total budget size for fiscal year 2017 is N7, 298 Billion, which represent an increase of 20.4 percent from 2016 budget size with a budget fiscal deficit of N2,360 Billion. This represents an increase of 6.69 percent from the 2016 budget fiscal and about 2.18 percent of the GDP". To achieve realistic human capital development (SDGs 3 and 4) results, Nigeria will have to complete an estimate of financial investment required to address development challenges. A substantial financial gap in the implementation of human capital development (SDGs 3 and 4) is already being anticipated due to integrating many SDGs related interventions in her National Development Policy.

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[265] See Senator Udoma Udo Udoma, Honourable Minister of Budget and National Planning public presentation 2017

4.6.4. Humanitarian Crisis in the North East

In the last two decades, the North-East has been bedevilled by security challenges, humanitarian crises and development challenges. It is imperative to examine the present humanitarian crisis as a by-product of security challenges within their broader historical, ecological, socio-cultural, political, geographic, and developmental context. The socio-cultural and specific socioeconomic factors appeared to have been responsible for conflict and violence in the North-East. A well-documented religious contestation in the North-East is well known for a fairly long period. These include the recurrent conflicts around religious supremacy and dominance, which evolved through the various historical Era and their recurrent ethnic manifestations. According to Salihi[266], one of the major causes of Boko Haram Insurgency in the North-East is rebellion against Western Education and influence. In other words, Western Education was regarded or seen as a means of jeopardising the existing system owing to the fact that Western Education was introduced by Christian missionaries with the aim of evangelism. According to Clinton[267] "the lack of transparency and accountability had eroded the legitimacy of government and contributed to the rise of groups that embrace violence and reject the authority of the state". Salisu, in line with Clinton opined that:

> "The level of frustration and poverty among youths in the country is a fertile ground for activities of Boko Haram… their conduct is totally un-Islamic but the whole problem boils down to the failure of government at all levels to make the welfare of the citizenry a priority, a nation that allows its youths to be idle is sitting on a time bomb because frustrated people seek relief in religion".

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[266] See Salihi.H.M.(2012)" Governance Failure and Political Violence in Nigeria: The Jama'atu Ahlis Sunnah Lidda'awati Wal-Jihad in Perspective" in H. Mohammed (ed). Nigeria's Convulsive Federalism: Perspectives on Flash-Points of Conflict in Northern Nigeria, Ibadan: Cypress Concepts and Solutions Ltd.

[267] See Clinton. H. (2009). "Nigeria: Lack of Good Governance". The Nation, August, 14, 2009:1.

In addition, according to Kashim[268], another cause of the Boko Haram insurgency is the proliferation of small arms and ammunition due to the peculiar geopolitical setting of Borno state's neighbouring three countries Niger, Cameroon, and Chad. The resultant effect of Boko Haram's activities led to humanitarian crisis and under-development in the North-East. According to the National Emergency Management (NEMA) level of internally displaced persons in the three states of Adamawa, Yobe and Borno is estimated at 1, 687,703. According to United Nations, internally Displaced Person (IDPs) are:

> "Person or group of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalised violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognised state border".

Further, the North-East humanitarian crisis level has led to the crisis in the health sector. The key component of humanitarian response and community stabilisation efforts is providing adequate health services. Boko Hara deliberately targeted most health facilities in the North-East which was later closed down in mid-2014. Boko Hara deliberately targeted most health facilities in the North-East which was later closed down in mid-2014. Humanitarian needs will increase as security challenges continue to be on the increase. As the humanitarian crisis level continues to be on the rise due to security challenges, people in need of protection and assistance will almost double as a result of the challenges facing the humanitarian community due to security and capacity for effective response. In light of the foregoing, a human rights-based approach to development will function to address humanitarian and human capital investment challenges under one coherent framework to ensure that the sustainable

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[268]Kashim.S. (2012)." Broadcast to the People of Borno state on Islam and Peace in Borno by the Politico". Monday, August 8 mht.

development goals (SDGs) 3 and 4 are met. This will put Nigeria's development objectives in both the North and South at the forefront and ensure that development gains are realised.

4.6.5. Weak Public Sector Institutional Capacities

One of the major barriers to effective implementation of the Sustainable Development Goals (SDGs 3 and 4) in Nigeria is as a result of weak public sector institutional capacities. It is imperative not that the public sector organizations expect efficiency in the provision of public goods and services and, most importantly, are interested in public sector organisations' effectiveness. According to Jones and Thompson[269], irrespective of public needs and demands, public sector organisations to be effective "need to respond to public perceptions and maintain equity in provision of public goods and services. It is important that the management of public sector organisations exhibit high level of effectiveness in societies where provision of vital social services is heavily dependent on the government".

Some of the major factors contributing to or responsible for Nigeria's weak public sector are corruption, accountability, transparency, probity, and budget implementation, going by the principle of value and ethics of public sector organisations. The provision of public goods and services and good governance are deeply affected by systemic corruption in Nigeria. What then is a public sector organisation? According to Erakovich and Wyman[270], public sector organisations are:

> "Organisations whose duty is to provide public services such as (basic education, public health care, law enforcement, fire service, electricity environmental protection, town planning, public security, military etc.), as well as creating and implementing public

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[269] See Jones.L.R. and Thompson. (2007)" From Bureaucracy to Hyper -achy in Netcentric and Quick Learning Organisations: Exploring Future Public Management Practice" North Carolina: Information Age Publishing (IAP).
[270] See Erakovich. and Wyman. S. (2009). Implications of organisational Influences on Ethical Behaviour: An Analysis of Perceptions of Public Managers: Ethics and Integrity in Public Administration: Concepts and Cases, 77-91. Ed. Cox, W. Raymond. New York: M.E. Sharpe, Inc.

policies. They embrace ethical values, value of equality, justice and transparency while performing their duties and their major goal is to achieve greater public good and show responsiveness to public needs".

The table below illustrates Nigeria's corruption perception index between 1996 and 2015. It is evident from the table that institutional corruption is responsible for weak public sector institutions or organisations in the country. The public sector is highly susceptible to corruption due to the huge amount of resources involved; therefore, strengthening the public sector is essential in addressing development challenges such as corruption and poverty for sustainable development. It involves an effective institutional and legal framework.

Table 2: Transparency International[271] Corruption Perception Index For Nigeria (1996-2015)

S/NO	YEAR	RANK	COUNTRIES	SCORE
1	1996	54	54	0.69
2	1997	52	52	1.76
3	1998	89	85	1.90
4	1999	98	99	1.60
5	2000	90	90	1.20
6	2001	90	91	1.00
7	2002	101	102	1.60
8	2003	132	133	1.40
9	2004	144	145	1.60
10	2005	152	158	1.90
11	2006	142	163	2.20
12	2007	147	179	2.20

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[271] See Transparency International Corruption Perception Index for Nigeria 1996-2015

13	2008	121	180	2.70
14	2009	130	180	2.50
15	2010	134	178	2.40
16	2011	143	182	2.40
17	2012	139	174	2.70
18	2013	144	175	2.50
19	2014	136	174	2.70
20	2015	130	167	2.60

Table 3: Cash involved in Abacha[272] Loot

S/NO	COUNTRY	AMOUNT IN US DOLLAR
1	LUXEMBOURG	321 MILLION
2	JERSEY	313 MILLION
3	USA	167 MILLION

Table 4: Diverted Funds to National Security Adviser[273] from Abacha Loot

S/NO	AMOUNT	TOTAL N BILLION	INTENDED PURPOSE
1	US$ 300 MILLION		To fight Boko Haram
2	£ 5.5 MILLION	N 61.4 BILLION	To fight Boko Haram

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[272] See Okonjo-Iweala 2015 former federal minister of finance and the coordinating minister of the federal republic of Nigeria.
[273] See Vanguard Vol. 25. No 62646 p.3.

The figure in tables 3 and 4 illustrate the level of "corruption, wealth and misuse of power" in governance. The Abacha loot was primarily set aside for addressing development challenges such as poverty, health, and education. However, as a result of the security challenges in the North-East, US$300 Million was diverted to the National Security Adviser (NSA) to fight the Boko Haram insurgency in the North-East. Weak Public Sector in Nigeria leads to widespread poverty (SDG1). There is a direct consequence on the citizens' wellbeing where public funds that would be used to provide basic social amenities such as education, healthcare, good drinking water, roads, food, and security are diverted.

Table 5: Public Funds[274] Shared Among Political Gladiator

S/NO	BENEFICIARY	AMOUNT (N)	AMOUNT (US$)
1	Jabbama Ada Global Ltd	400 Million	
2	R.R. Hospital	750 Million	
3	Acacia Holding Ltd	1.25 Billion	
4	Barrister I.M. Bala	150 Million	
5	African Cable TV	350 Million	
6	Nigerian Defence Academy	159 Million	
7	BB	350 Million	
8	Abuja EDC	125 Million	
9	Coscharis Motor	119 Million	
10	PDP Reps	380 Million	
11	HEIRS BDC Ltd	751 Million	

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[274] See Dasuki. S. (2015)"Dasuki acting on the instruction of President Goodluck Jonathan" Nation Newspaper Vol.10.No. 3427.Pp 1 and 6.

12	Political Campaign	1.5 Billion	
13	DAAR Comm	2.120 Billion	
14	E-Force inter-Service		147million

4.7. Current Developmental Challenges:

As discussed in chapters one, two, and three of this thesis, there are different challenges facing Nigeria as a nation. As discussed in chapter three, the historical challenges created some development challenges in Nigeria. The Nigerian state division into North and South created different educational systems, judicial systems, health systems, and land tenure systems. Nigeria ended up with two administrative systems, one for the North and one for the South, compared to large British colonies like India and Sudan with a single administrative system. Owing to the nature of the administrative system, it appears that these were two separate countries, in a union by a shared currency and transportation system. The South developed at a different rate than the North, and Nigeria lacks a central or key figure, for example, Nelson Mandela in South Africa and Kwame Nkrumah in Ghana. Therefore, the North and South divide from this historical legacy has been a major issue in addressing Nigeria's development challenges. However, our nation's founding fathers, to their credit, tried to address these development challenges by adopting federalism and advocating a policy of unity in diversity. This challenge of divisive historical legacy continues to undermine the country's efforts to address her development challenges due to the lack of consolidation of Nigeria's federalism around shared values and position.

4.8. Poor Human Capital Investment/Development

Nigeria continues to face development challenges despite having made some progress in socio-economic terms in recent years. This is due to under-investment in its human capital development, which remains weak and puts the country in 152 positions out of the 157 countries in the World Bank 2018 report. Rather than the primary objectives of economic policy, people's well-being has traditionally been considered a by-product of growth. The levels of development were measured within this context by the magnitude of national income measured by economic growth. Nigeria continues to face development challenges despite having made some progress in socio-economic terms in recent years. This is due to under-investment in its human capital development which remains weak and puts the country in 152 positions out of the 157 countries in the World Bank 2018 report. Rather than the primary objectives of economic policy, the well-being of people has traditionally been considered a by-product of growth. The levels of development were measured within this context by the magnitude of national income as measured by economic growth. According to Smith and Todaro[275] "the use of growth indicators to measure development missed the social aspect of development". Development as defined in chapter 1 and 2 of this thesis based on the preamble of the Declaration of the rights to development which states that:

> "Development is a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom".

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[275] See Smith. S.C. and Todaro. M.P. (2003)," Economic Development" (8th ed), Pearson Education (Singapore) Pte Ltd, Delhi, India

The empowerment of individuals is an essential aspect of human capital development, which plays a significant role as consumers in Nigeria as a society. Research has shown that Nigeria has a lower than average life expectancy, high maternal and child mortality, high preventable morbidity, mortality, and education output and learning outcomes. Therefore, the provision of health, education, and social protection are core to empowering the population to achieve sustainable development in North and South Nigeria. According to Ukpong[276],"investment in education is investment in human resources which has been discovered as a factor of economic growth and development both in developed and developing countries".

When people are denied functional education, opportunities of coming from poverty are also denied. When the citizens are not given the right kind of education, society suffers the negative trickle-down effect. In the end, many Nigerians will be removed from the vicious circle of poverty, particularly in the North. Many people, and even sometimes economic advisers on poverty eradication programmes, who are deficient in the dynamics of economic growth, usually erroneously assume that economic growth translates typically into poverty reduction. Growth does not necessarily reduce poverty, provide food security. Thus, conscious and deliberate development strategies by African countries, particularly Nigeria, need to be specifically put in place to address development challenges such as human capital development poverty, corruption, lope sided income distribution, infrastructure issues, lack of technological innovation, governance, and over dependency, on oil as issues in their own right. These strategies need to address two critical needs: first, how to make the poor more productive and second, how to provide assets to the poor. Further, earlier policies aimed at reducing poverty in Nigeria tended to favour the urban elite at the expense of the rural poor and men at women's expense (World Bank, 2015). Therefore, adopting an approach is an essential first step towards addressing Nigeria's development challenges. A Human right

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[276] Ukpong, I.I. (1984)," Social and Economic Infrastructure "in F. A. Olaloku et al (ed) Structure of the Nigerian Economy, Lagos: Macmillan Publishers. Pp-99.

based approach will ensure better access to health, education, food, clean water, and sanitation for everyone. Improving human capital development is an effective way to promote social mobility and address Nigeria's development challenges. According to Conceicao[277], the Director of the Human Development UNDP:

> "We are witnessing both convergence and divergence in human development for instance, in many countries today, gaps have closed when we talk about access to primary education. But differences between children in poor and wealthy households are widening in both early childhood and quality of education. These inequalities will have lifetime consequence particularly given the rapid technological changes, which are likely to impact labour. This is just one example of why our analysis of inequality must go beyond income, beyond averages and beyond today".

According to the World Bank, Nigeria and other countries in Africa constitute the poorest nations in the world due to the lowest indicators of socio-economic development. Different social science researchers and other scholars have argued that poverty in Nigeria and other African countries is attributed to many interrelated causes. The low level of capacity building indicators is responsible for Nigeria and Africa's underdevelopment. Corruption has been at the centre of development in Africa and Nigeria in particular, which act as an impediment to true and real development. During the implementation of the 1955-1960 development plans, the belief in human capital and its sustainability as a necessity for growth started in Nigeria. Today, human capital with the importance of knowledge in the economy has increasingly attracted both 'academic and public interest'. According to the World Bank Report (2015)278, indicated that shortage of talents and skills needed for development could decisively hider the country's ability to address her development challenges. Education and health are two key

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[277] See Conceicao.P. (2019)" Human Development Report to Focus on Inequality" UNDP report. Available at www.hdr.undp.org/en/content/2019-human-development-report Accessed 11 August 2019.
[278] See World Bank Report (2015) Education for all.

factors in human capital development, and to enter into the international area, Nigeria needs to invest in human capital development. In Nigeria, according to David and Gabrscek[279] a recent ESSPIN-funded study of "primary and junior secondary teachers" working in government schools, "only 75 out of 19000 teachers" achieved the minimum standards. In Nigeria, particularly in the North the decline in the quality of education and health has across the strata has become a national disgrace. According to EI-Rufai, the executive governor of Kaduna State who during the recent Northern Youth Summit organised by the Northern Hibiscus Initiative in Kaduna in 2019 states that:

> "Looking at the statistics, Nigeria appears to be a middle income country, but if we segregate those statistics across states and zones, you will see that in terms human development indicators, Nigeria consist of two countries, there is a backward, less education and unhealthy Northern Nigeria and a developing, largely educated and healthy Southern Nigeria. The theme of this summit," Awakening the Arewa Spirit" is very timely. When we talk about awakening the spirit, it means the spirit is either sleeping or dead. We have to speak the truth to ourselves and ask why is it that, Northern Nigeria has development indicators similar to Afghanistan, a country still at war. Nigeria has the largest number of poor people in the world, most of them in Northern Nigeria. Nigeria also has the largest number of out of school children, virtually all of them in Northern Nigeria. Northern Nigeria has become the centre of drug abuse, gender violence, banditry, kidnapping and terrorism. We have also been associated with high divorce rate and breakdown of families. These are the challenges that confront us. This is the naked truth that we have to tell ourselves. We must therefore as leaders at all levels, have conversation about the way forward for our part of the country".

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[279]David.J. and Gabrscek.S. (2008)" Education Sector Support Programme in Nigeria" (ESSPIN)-An Assessment of the Development Needs of Teachers in Nigeria

In addressing Nigeria's development challenges, the country needs to invest in education and health because its quality depends on its workforce quality. The amount of budget allocated for education despite its importance in human capital development is insignificant compared to other countries in Africa, such as South Africa. Imahen and Ailemen[280] states that:

> "a cursory look at the magnitude and trend of increases in allocation might be misleading in passing judgment on the budgetary performance until they are placed side by side with their percentage allocations. The characteristic pattern of the government's allocation to education and health in Nigeria as a percentage of the total budget revealed inconsistency. That is health and education expenditure were not considered as policy targets in the overall budgeting or else, they would have maintained an increasing proportion of the yearly budget of the nation. Since the late seventies, budgetary allocations to education have not matched the increasing need for qualitative education for young Nigerians to be globally competitive. Research grants are administered discretionary instead of systematically, when they are available".

Nigeria, among the 189 countries, is dismally ranked 157 in the 2019 Human Development Report[281]. A closer look at the report shows that Malaysia occupies 57th position compared to the 2004 Human Development Report. Others in the High Human Development ranking include Iran 60, Algeria 85, Libya 108, Gabon 110. Countries in the Medium Human Development ranking include South Africa 113, Egypt 115, Iraq 120, Morocco 123, India 130, and Ghana 140. In light of the foregoing, Nigeria is only better off than 32 countries out of the 189countries in the measurable human development indices (HDI) by basic

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[280]AilemenM.I. ., Imahe O., and Aigbokhan B. (2007)"Education Expenditure and Human Capital Development in Nigeria: Any Correlation So far" Research Paper, Ambrose Alli University.
[281] See United Nations Development Programme: Human Development Reports (2019) Table 1 Human Development Index and its Components

interpretation of the report. The Gross National Product (GNP), Gross Domestic Product (GDP), Economic performance, per capita income, life expectancy, literacy rates, water and sanitation, nutrition, health risk, and technology are the major indices considered in the ranking.

In Nigeria, life expectancy is as low as 51, that the citizens are poor, living on 1.25 US dollars a day. As a result of poor infrastructure, operating industries can be costly, making it one of the costliest countries to operate in. Nigeria depends mostly on the importation, and unemployment is high. Male enrolment in Nigeria is higher than the female based on the Gender Disparity Index (GDI). However, gender inequalities in education are falling over time compared to gender differences in literacy and enrolment. According to President Muhammadu Buhari addressing the Adamawa state governor on Thursday the 15th of August 2019 states that:

> "Your Excellency, I am pleased to hear your remarks, specifically focused on issues around education and health. These areas remain priorities for this Government especially as we strive to achieve social inclusion and collective prosperity for all Nigerians. Many of the issues confronting our nation today, especially in the areas insecurity and corruption, are directly or indirectly linked to the decades of under-investment in education and healthcare. At the Federal level, we are doing our best to address these issues. But the Federal Government cannot do it alone. We need the State and Local Governments to do their part. This is not about politics. It is a reality. Today, majority of Nigerians are below 20 years old and it is projected that our population growth rate will remain amongst the fastest in the world. This means any plans we have today must take into account, the needs of tomorrow".

According to the World Bank, the university's role in technological innovation and human capital development cannot be underestimated. Investment in university education worldwide is a critical component of national development. University increases the productive capacity of the labour force as a nation's knowledge industry. Onyeonoru[282] in line with the World Bank states that,

> "The funding of Nigeria universities had declined. The effects had been stifling for university administrators, which had led to lack of accountability, misappropriation of public funds, wasteful spending, corruption and misplacement of priorities".

4.9. Education Policy Performance and Student/Teacher Ratios

Nigeria"s governments also articulate a commitment to long-term development in terms of a commitment to education. Echoing a point developed by Adam Smith in the Wealth of Nations who argued that social policy spending constitutes an investment in "human capital" that contributes to economic performance (Galbraith[283]1976; Schultz[284] 1999). There is evidence of a direct effect of education on workers" skills, which boosts productivity as they improve (Barro and Lee[285]). Investment in education and social services also contribute to growth over the long term through in Indirect effects (Baldacci et al[286]; Hanushek[287] and Woessmann; Johnes[288]; Psachropoulos[289]). The World Bank, the United Nations, and other prominent players in the international development community accept the proposition that

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[282] Onyeonoru, I. (2007)," Human Capital in Nigeria University: The Presence of the Past and the Thrust of the Future" in Kenny, J. (2007) The Idea of an African University-Council for Research in values and Philosophy
[283] Galbraith.J.K. (1976)," The Affluent Society,3rdrev.ed. Boston: Houghton Mifflin, original ed., 1958.
[284] Schultz.T. Paul (1999)." Health and Schooling Investments in Africa". Journal of Economic Perspectives No. 13 (3):67-88.
[285] Barro.R.J., and Jong-Wha Lee. (2001)," International Data on Educational Attainment: Updates and Implications" Oxford Economic Papers no.53 (3): 541-563.
[286] Baldacci, Emanuele, Benedict Clements, Sanjeev Gupta, and Quang Cui. (2008), "Social Spending, Human Capital and Growth in Developing Countries" World Development no.36 (8):1317-1341.
[287] Hanushek.E.A., and Ludger.W. (2007), "The Role of Education Quality for Economic Growth" SSRN eLibrary.
[288] Johnes.G. (2006)," Education and Economic Growth" SSRN eLibrary.
[289] Psacharopoulos.G. (2006), "The Value of Investment in Education: Theory, Evidence, and Policy". Journal of Education Finance No. 32(2):113-136.

social spending makes citizens and other countries they live in, more productive. Evidence from Nigeria supports these findings, showing that Federal investment in primary school education improves workforce quality and has indirect benefits such enabling women to delay marriage and have fewer children (Osili[290]). Nigeria"s government has embraced this view, rhetorically and often through government policies, for half a century. In 1959, the Federal Minister of Education appointed a commission to undertake education planning, and, in 1961, the Federal government pledged to implement its key recommendations, including

> "progressive improvement in primary education throughout the Federation so that the foundation of national development may truly be laid" Realising that Nigeria needed to train a new generation of bureaucrats, politicians, and entrepreneurs, the Federal government declared that its development plans for 1962 to 1968 would "accord the highest priority to education" and were "designed to increase as rapidly and as economically as possible the high level man power which is indispensable to accelerated development". (Federal Government of Nigeria, 1961).

The Federal government promised to provide substantial assistance to the states for this purpose.[291] According to Akinkugbe, by late 1960, the states had taken over education through a series of reforms, and the Federal government had begun exploring ways to guarantee access to primary education. The result was Universal Basic Education (UBE), and in 1977 a task force on education laid out a new national policy on education and declared that "education was the most important investment Nigeria could make for its socio-economic development[292]".The new constitution guaranteed free primary and secondary education as a basic right and codified the practice of shared responsibility for education

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[290]Osili.U.O. (2008),"The Impact of Universal Primary Education on Socio-Economic Outcomes: A Nigerian Experiment." In Economic Policy Options for a Prosperous Nigeria, edited by Paul Collier, Chukwuma Soludo and Catherine Pattillo, 373-396, New York: Palgrave Macmillan
[291] See The Federal Ministry of Economic Development Report (1960).
[292] See Editorial, "Hard Road for Education" West Africa, May 21, 1979.

between the Federal government and the states. Two years later, invoking the discourse of human capital, the government referred to the educational system as "an instrument par excellence for effecting national development[293]". Under Obasanjo"s administration, delivery of national collective goods was measured by education policy, which was inconsistent over his eight years in office as present. The primary student/teacher fluctuated wildly, ranging from 36 to 46 pupils per teacher. His final years seemed to bring this under control, averaging 39.6, which is still high, considering targets. Assessing the eight years of education performance under president Obasanjo"s watch, the World Bank reported, "Despite significant efforts during the past eight, much remains to be done in the education sector", including the need to increase enrolments, especially in the North. It concluded, "The overall quality of education remains poor at all levels and varies considerably within and across states[294]". Nigeria signed the Jomtiem Declaration of Education a year later, and this is an international agreement among nine developing nations to reduce illiteracy and promote and fund education. Further, when a new democratic government assumed power in 1999, constitutional provisions again enshrined the commitment to Universal Basic Education (UBE). In other words, Section 18(3) of the 1999 Federal Constitution pledges the government to provide free compulsory Universal Primary Education, free secondary education, free university education, and free adult literacy programs[295]. The incoming speaker[296] of the House told a group of bankers that the government "should begin to make massive investment in human capital" because education would help insulate the nation from the pain of globalisation. Umaru Yar"Adua[297] Nigeria"s president in 2009 embraced a similar view, explaining that "education and health determine the quality of human capital" and

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[293] See Federal Government of Nigeria (1981,5).
[294] See Nigeria: A Review of the Costs and Financing of Public Education 2008,1.
[295] See Federal Ministry of Education Report 1999-2000); see also Universal Basic Education Annual Report (2002) (Universal Basic Education Programme 2003).
[296]Ghali Umar Na"Abba, "Economic Property as Foundation for Sustainable Democracy", Speech in Lagos, February 27, 2002.
[297] See Interview, "Umaru Yar"Adua: President…. on a Mission Incredible," The Guardian, April 29, 2009.

characterising social spending as a way to turn Nigeria's large population into an advantage in the global economy. Access to education has been a cornerstone of development policy since independence, and the federal government has played a major role. According to Glewwe and Kremer[298], the most widely used metrics in the comparative literature for measuring educational outcomes are enrolment rates and average years of schooling. According to Barro and Lee[299], while these indicators show levels of participation, they do not adequately capture the extent to which educational policies build human capital; it is these long-term effects that give education qualities as a national collective good. The student-teacher ratio (sometimes referred to as class size) is a more useful metric for understanding this policy performance dimension. Not only does it have demonstrable indirect effects on economic growth over the long term, but it is also linked to more immediate and direct outcomes associated with better quality education. Student-teacher ratios appear to impact educational outcomes in Africa, specifically by improving literacy rates, as opined by Case and Deaton[300]. The education variables, student/teacher, are a ratio based on original data from the Federal Office of Statistic and various Federal Ministry of Education publications gathered during field research in Abuja, Lagos, and Ibadan[301]. According to Abernethy, one possible source of measurement error is the fact that the federal government's role in education varies over time. In post-independence Nigeria in particular, missionaries and private institutions continued to play a large role in providing education.

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[298]Glewwe.P, and Kremer.M. (2006), "School, Teachers, and Education Outcomes in Developing Countries" In Handbook on the Economics of Education, edited by E.A. Hanushek and F. Welch, 945-1011. Amsterdam: North Holland.

[299]Barron.R. J., and Lee.J. (2001)" International Data on Education Attainment: Updates and Implications". Oxford Economic Papers No.53(3):541-563.

[300] Case.A., and Deaton. A. (1999)," School Inputs and Educational Outcomes in South Africa" Quarterly Journal of Economics: 1047-1088.

[301] Sources for student/teacher ratios, enrolment levels, and number of schools are as follows: years 1969-1962 from Annual Digest of Education Statistics 1962; years 1963-1967 from Annual Abstract of Statistics 1968, pp. 151-153; years 1991-2002 from Handbook of Information on Basic Education 2003. Other years are gathered from Annual Abstract of Statistics for years 1972, 1981, 1985, 1986, 1991, and 2001; Social Statistics in Nigeria 2009; and editions of Statistics of Education in Nigeria for years 1972, 1973, 1974, 1980-1984, and 1985-1989.

Finally, the public goods literature recasts an educated population as a public policy outcome by considering education as a human capital investment with broad national benefits, similar to other non-excludable goods. The subnational government routinely refuses to implement national policies until they receive money from the federal government, either through grants-in-aid or through the federal revenue allocation system. The states "merely fold their hands and do not lift a finger till they have obtained their chunk of the so-called national cake[302]". The budget allocated for education variable is also a useful control since federal spending on education could obviously impact student/teacher ratios by enabling governments to hire more teachers. The next section of this chapter will examine the challenges of socio-economic inequalities in Nigeria.

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[302] Through the Eye of a Needle: States" Billion Naira Budget Based on Expectation from the Federal Government," The Nigeria Economist, February 5, 1990.

4.10.   The Challenge of Socio-Economic Inequalities

"If the British Administration had failed to give us the even development that we deserved and for which we craved so much- and they were, on the whole, a very fair administration-what had we to hope from an African Administration Probably in the hands of a hostile party. The answer to our minds was, quite simply, just nothing, beyond a little window dressing" (Bello[303], 1962

"Fear has been constant in every tension and confrontation in political Nigeria not the physical fear of violence, not the spiritual fear of retribution, but the psychological fear of discrimination, and of domination. It is the fear of not getting one"s fair share one"s dessert" (Kirk-Greene[304], 1975).

"It was precisely in the sphere of education that regional differences were increasingly manifested under colonialism. And this then had a knock-on effect on the regional formation of human capital and general economic development. Colonial education policy in Northern Nigeria was driven by two intertwined policies: fear of the development of a class of educated Africans, as was the case in the Southern Nigeria. It was Lugard"s view that in Southern Nigeria education had produced men discontented, important of any control and obsessed with their own importance" (Graham[305], 1966)

The British did everything possible in colonial Northern Nigeria to prevent the emergence of an educational system that might threaten British control. According to Graham, "Lugard" educational policy in the North had five objectives, the first of which was the strengthening

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[303] Bello. A. (1962)," My Life". Cambridge University Press, Cambridge
[304] Kirk-Greene. A.H.M. (1975)," The Genesis of the Nigeria Civil War and the Theory of Fear. Nordic African Institute, Uppsala
[305] Graham.S. (1966)," Government and Mission Education in Northern Nigeria: 1900-1918". Ibadan University Press, Ibadan.

of government control". In line with Graham''s postulation, Adamu argued that the only secondary school in Northern Nigeria in 1931 was restructured in a bid to introduce proper examination. According to Mustapha, Lugard banned missionary activities under the guise of protecting Islam, including the founding of schools; whilst in Lagos, three Muslim schools were being subsidies to provide modern education, but in the North, there were no such schemes. The South had an advantage because of this educational policy in Western education due to its earlier contact with Europeans, which was responsible for the destabilising inequality in education between the North and South Nigeria. According to Okeke, in 1957, for example, the number of primary schools in the South was 13473 with an estimated population of 2,343,317 students, whilst the number of primary schools in the North was estimated to be 2,080 and a population of 185,484 students. Similarly, as shown in the table below, the level of inequality in secondary school output between the North and South can be seen between 1912 to 1965.

Table 6 shows the populations of secondary schools in North and South Nigeria, 1912-1965.

	North		South	
Year	No of schools	No of pupils	No of schools	No of pupils
1912	0	0	10	67
1926	0	0	18	518
1937	1	65	26	4,285
1947	3	251	43	9,657
1957	18	3643	176	28,208
1965	77	15,276	1,306	180,907

Adamu, 1973p51

According to Yoloye, 80 percent of the children of primary school age in the South were enrolled, and the comparative figure for the North is 9 percent of the children of primary school age were enrolled. In the same year, the number of pupils in secondary in the South was 40,000, whilst the North had 4,000 pupils in secondary schools. Differential development outcomes in terms of education between North and South Nigeria can be seen due to

government policies and other inequalities resulting from natural economic endowments and differences in geography.

Table 7 : Estimate of Primary School Enrolment in Nigeria 1965-1974[306]

YEARS	NORTH	SOUTH	NIGERIAN
1965	492510	2418913	2191423
1966	578864	2507117	3025981
1967	506818	Nil	Nil
1968	545237	Nil	Nil
1969	601032	1722732	2345764
1970	669637	2846190	3525827
1971	768666	312 5873	3894539
1972	854466	3536731	3894539
1973-74	1024602	3865251	4889853

The table in figure 7 shows a total output of primary school enrolment in 1966 at 3,025,981, of which the total enrolment was 578864 and that of the South to be 2,507,117. Table 8 illustrates the degree of inequality in terms of education between North and South Nigeria.

Students Total Admissions[307]

Keys= Red for Total Application and Blue for Total Admissions

Applications and Admissions to Nigeria Tertiary Institutions

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[306] See Statistic of Education in Nigeria. Available at www.uniilorinedu.ng/uniilorinjournals/education/ijeee/deo2002/military%20and%20civilian%20Regimes%20IN%Nigeria%201966%20to1983.Accessed 25 August 2019.
[307] See National Business of Statistics, Joint Admissions and Matriculation Board.

Further, the table[308] below illustrate the number of applications and admissions to Nigeria's tertiary institutions between 2010 and 2015.

	2010	2011	2012	2013	2014	2015
Applications	1,513,940	1,636,356	1,632,835	1,924,393	1,785,608	1,612,247
Admissions	423,531	417,341	447, 176	463,395	437,704	485,338

A closer look at the table above indicated that throughout 2010 to 2015, the South has the highest number of applications whilst the North occupied the last three positions. The ratio of female to male admission is higher in the South when compared to the North. The South had 50 percent female admission while the North's ratio is 18.4 percent. The human capital index continues to face massive developmental challenges, particularly in the North, which includes the need to reduce Nigeria's dependency on oil and address the lack of infrastructure and governance issues. The bar chart below illustrates the number of applications and admissions to Nigeria's tertiary institutions between 2010 and 2015.

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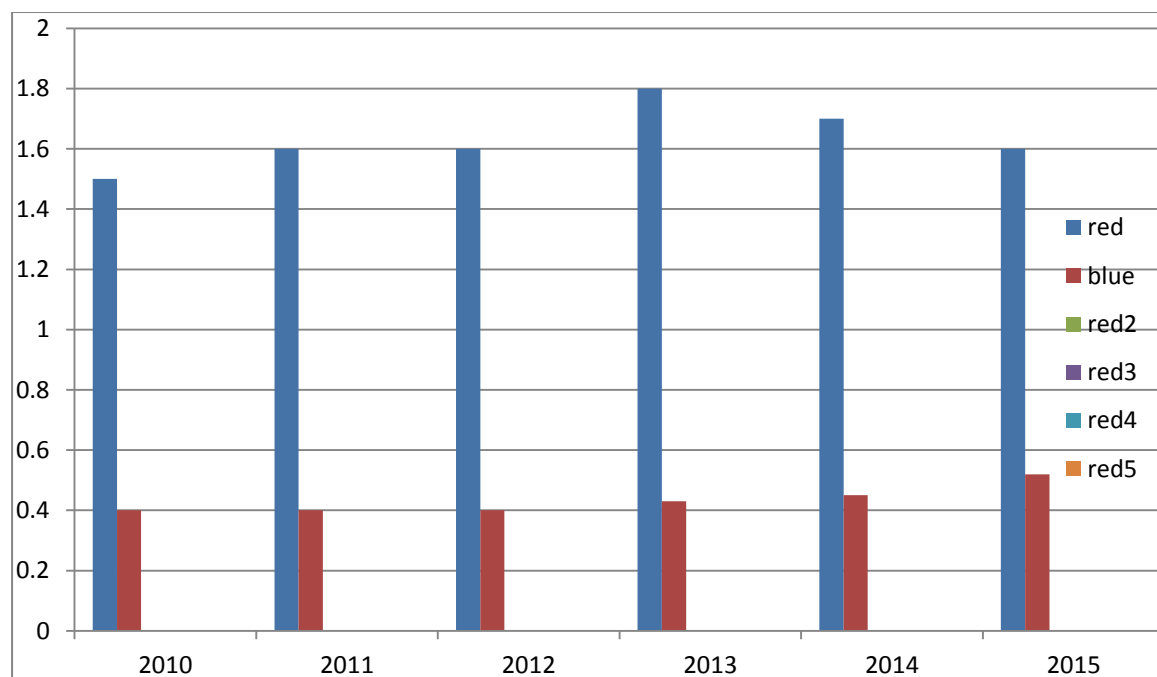
[308] See National Bureau of Statistic (2015); Joint Admission and Matriculation Board

The Graph above illustrates that only 26 percent of the 10 million applicants gained admissions into Nigeria University between 2010 and 2015. One of the factors responsible for the shortcomings is a result of the growing students' population and the shortage in local institutions' capacity. Also, in Nigeria, available data reveals a gap in gender education, particularly in the Northeast, with some of the country's lowest literacy rates. This is due to cultural beliefs in the North that a girl's education is a luxury; the consequences of this can be seen in the graph below.

Students admitted to tertiary schools in Northern Nigeria[309] (2010-2015)

Keys= Red for Male and Blue for Female
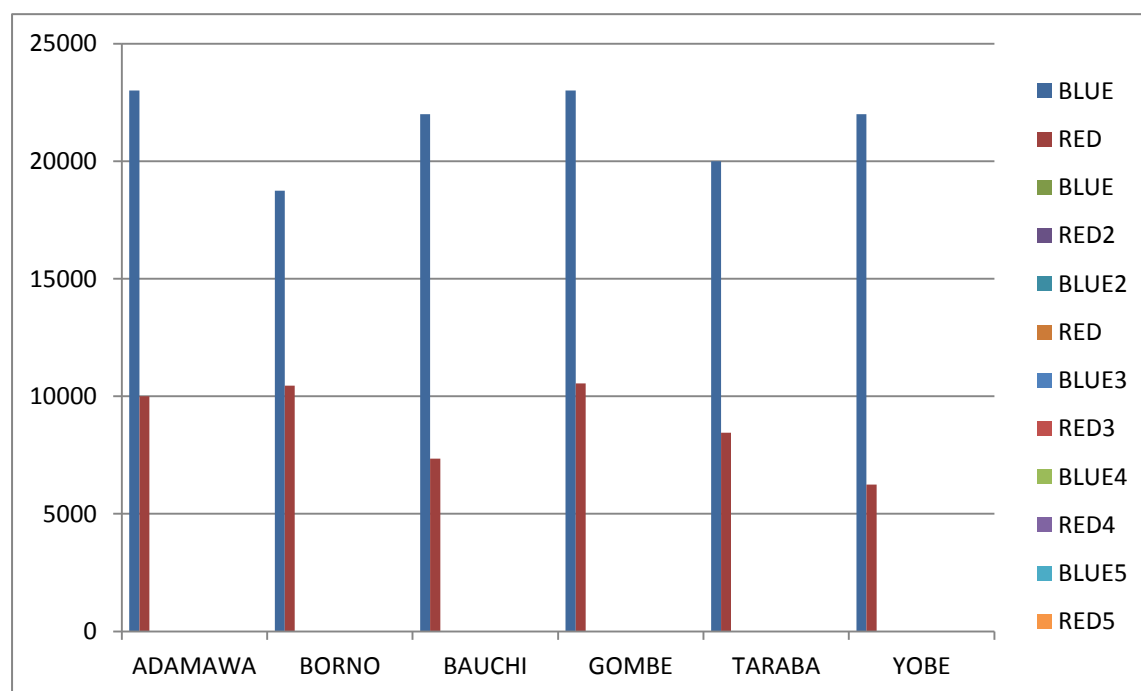
To correct the gap in girls' education in the North, former CBN governor and currently the Emir of Kano, Sanusi Lamido Sanusi, advocated the need to ban early child marriage and

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[309] See Data from National Bureau of Statistics and Joint Admissions and Matriculation Board (2015)

convert mosques to schools. Boko Haram kidnapping an estimated 276 school girls in April testified to the magnitude of risks of girls, and young women bear when they attend schools in the North compared to the South.

Table 8. Number of Primary Schools by State:[310]1975-1984

	1975/76	1977/78	1979/80	1981/82	1983/84
Anambra	1,708	1,900	1,931	2,054	2,084
Bauchi	1,086	2,235	1,869	1,805	1,830
Bendel	1,562	1,594	1,665	1,754	1,736
Benue	1,200	2,667	2,688	2,703	2,700
Borno	1,526	1,854	1,886	2,088	2,090
Cross Rivers	1,505	1,620	1,478	1,690	1,660
Akwa -Ibom	-	-	-	-	-
Gongola	1,564	1,868	1,849	1,864	1,857
Imo	1,880	1,925	1,939	1,958	2,011
Kaduna	859	2,821	2,857	2,875	2,885
Katsina	-	-	-	-	-
Kano	679	3,028	3,050	3,063	3,063
Kwara	539	1,123	1,215	1,487	1,365
Lagos	244	1,033	725	863	962
Niger	245	1,033	1,033	1,067	1.164
Ogun	1,161	1,203	1,222	1,262	1,288
Ondo	1,159	1,389	1,471	1,595	1,627
Oyo	1,955	2,318	2,445	2,701	2,907
Plateau	685	2,422	2,455	1,661	16,687

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[310] Ibid

State							
Rivers	595	870	946	1,001	1,119		
Sokoto	732	2,692	2,865	3,939	4,038		
Abuja	-	-	-	184	198		

Source: (1) Statistics of Education in Nigeria 1980-84(2) National School Statistics 1987 (3) Report on Primary Education in Nigeria 1991

Further, the National Bureau of Statistics in Nigeria conducted a National Literacy Survey in 2010. It estimated the adult literacy rate to be 56.9 percent with differences in literacy rate between the North 14.5 percent and the South, which is 92.0 percent of which male is 65.1 percent and female is 48.6 percent. According to the Federal Ministry of Education[311]Statistic report (2010) of the 40 million adult illiterates only 500,000 are enrolled in adult learning classes. The report also indicated that only 450,000 of the 3.5 million nomadic school-aged children could access any more of schooling.

The table[312] below is the illustrate of population age 6 and above by literacy states, status and sex.

S/N	State	Population			Literacy	Rate		
		Male	Female	Total	Male	Female	Total	Percentage
1	Abia	1,430,298	1,451,082	2,881,380	1075280	1013986	2,089,266	72.5
2	Abuja	733,172	673,067	1,406,239	479,460	384,626	864,086	61.4
3	Adamaw	1,607,270	1,571,680	3,178,950	734,105	553,051	1,287,156	40.5
4	Akwa Ib	1,983,202	1,918,849	3,902,051	1,426,38	1331413	2757798	70.7
5	Anambra	2117984	2059844	4177828	1603569	1532523	3136092	75.1
6	Bauchi	2,369,266	2,283,800	4,653,066	913,500	672,414	1,585,914	34.1
7	Bayelsa	874,083	830,432	1,704,515	566,164	491,181	1,057,345	62.0
8	Benue	2,114,043	2,109,598	4,223,641	1084138	818653	1,902,791	45.1
9	Borno	2,163,358	2,007,746	4,171,104	392721	210,771	603,492	14.5
10	Cross Ri	1,471,967	1,421,021	2,892,988	953,240	849,366	1,802,606	62.3
11	Delta	2,069,309	2,043,136	4,112,445	1419177	1284626	2,703,903	65.7
12	Ebonyi	1,064,156	1,112,791	2,176,947	607,913	545,088	1,153,001	53.0
13	Edo	1,633,946	1,599,420	3,233,366	763,011	719046	1,482,057	45.8
14	Ekiti	1,215,487	1,183,470	2,398,957	914,656	877,622	1,792,278	74.7

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[311] See Federal Ministry of Education Statistic Report (2010)
[312] See NMEC (2011) cited in "High level International Round Table on Literacy Reaching the 2015 Literacy Target: Delivery on the Promise" UNESCO, 2012.

15	Enugu	1,596,042	1,671,795	3,267,837	1095655	1076831	2,172,486	66.5
16	Gombe	1,244,228	1,120,812	2,365,040	538,463	390,853	929,316	39.3
17	Imo	1,976,471	1,951,092	3,927,563	1075280	1013986	2,089,266	53.2
18	Jigawa	2,198,076	2,162,926	4,361,002	566,164	491,181	1,057,345	24.2
19	Kaduna	3,090,438	3,023,065	6,113,503	914,656	877,622	1,792,278	29.3
20	Kano	4,947,952	4,453,336	9,401,288	2701175	1899636	4,600,811	48.9
21	Katsina	2,948,279	2,853,305	5,801,584	740,034	517,630	1,257,664	21.7
22	Kebbi	1,631,629	1,624,912	3,256,541	506,633	316,203	822,836	25.3
23	Kogi	1,672,903	1,641,140	3,314,043	596,641	513803	1,110,444	33.5
24	Kwara	1,193,783	1,171,570	2,365,353	627,636	539,436	1,167,072	49.3
25	Lagos	4,719,125	4,394,480	9,113,605	4341595	4042922	8,384,517	92.0
26	Nasaraw	943,801	925,576	1,869,377	441,859	340,875	782,734	41.9
27	Niger	2,004,350	1,950,422	3,954,772	763,011	719,046	1,482,057	37.5
28	Ogun	1,864,907	1,886,233	3,751,140	1218209	1138043	2,356,252	62.8
29	Ondo	1,745,057	1,715,820	3,460,877	1192117	1101163	2,293,280	66.3
30	Osun	1,734,149	1,682,810	3,416,959	137,563	135,242	272,805	80.0
31	Oyo	2,802,432	2,778,462	5,580,894	1819804	1691955	3,511,759	62.9
32	Plateau	1,598,998	1,607,533	3,206,531	810,148	683,329	1,493,477	46.6
33	Rivers	2,673,026	2,525,690	5,198,716	1978446	1804143	3,782,589	72.8
34	Sokoto	1,863,713	1,838,963	3,702,676	660,204	453,582	1,113,786	30.1
35	Taraba	1,171,931	1,122,869	2,294,800	348,781	185,815	534,596	23.3
36	Yobe	1,205,034	1,116,305	2,321,339	380,274	237,400	617,674	26.6
37	Zamfara	1,641,623	1,637,250	3,278,873	596,641	513,803	1,110,444	33.9

71,315,488,69,122,302,140,437,790,38,094,541,32,976,373,71,071,014,50.6

The figure above illustrated that out of the thirty-seven states slated for achieving the EFA goal by 2015, only seventeen are at risk of not achieving the goal due to the number of adult literacy and youth rate between 14.5 to 49.3 percent. Presently the number of out of school children in Nigeria has risen to ten million five hundred thousand (10.5Million), according to United Nations Children"s Fund (UNICEF[313], 2018). In other words, one in every five of the world out-of-school children is in Nigeria. Further, different kinds of socio-economic inequalities in Nigeria can be seen as a result of radical differences in the quality of life between an individual in North and South Nigeria. For example, the probability of a woman dying during childbirth is higher in the North when compared to the South. Through sustainable development of the social welfare or sustainable development of the economy and

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[313] See United Nations Childrens Fund (UNICEF, 2018) Report on Quality Education in Nigeria.

equality opportunities for all, developed countries of the world established a base-line of "social and economic rights" that all citizens of the various countries must enjoy. Noting enjoying the right to health and education has negative consequences on human capital development, which means that citizens are marginalised, particularly in the North. Preventing "socio exclusion or the exclusion of significant segments" of the population from enjoying these fundamental social and economic rights will affect human capital development, which acts as a barrier to Nigeria's development challenges. In addition, in terms of health, using the level of immunisation of children against dangerous childhood diseases are some of these socio-economic inequalities; the data available shows that whilst the South-East has 92 percent immunisation level, the North-East has only 58 percent level of coverage. The level of immunisation in the South-West is 89 percent, whilst that of the North-West is 49 percent. The figure below illustrates the level of immunisation in North and South Nigeria.

FIGURE 1: COMPLETENESS OF ROUTINE IMMUNISATION IN NORTH AND SOUTH[314]

Red 40	Yellow 37	Green 23
Red 61	Yellow 31	Green 8
Red 42	Yellow 38	Green 20
Red 30	Yellow 44	Green 26
Red 14	Yellow 43	Green 43
Red 11	Yellow39	Green 50
Red 8	Yellow48	Green 44

RED = Net Vaccinated (%)

GREEN- Fully Vaccinated (%)

YELLOW=Partially Vaccinated (%)

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[314] See National Immunisation Coverage Survey (2016-2017): National Brief.

The bar chart on Completeness of Routine Immunisation in North and South (2016-2017)
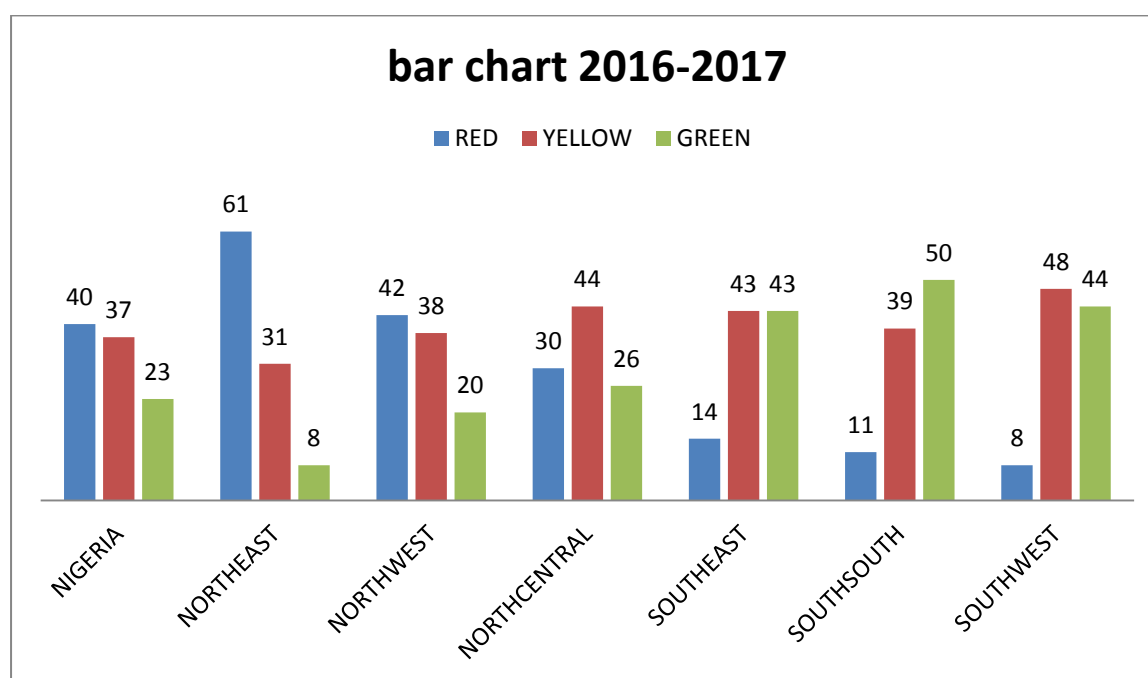
The low use of Maternal Health Services in Nigeria is responsible for the high number of maternal deaths. In 2010, of the estimated 8.3 million pregnant women, nearly half had no antenatal care, and only 55 percent of those who have had antennal care only had four or more antenatal care visit before delivery, according to the World Health Statistics[315]. According to the National Population Commission[316] (NPC), the skill workers in Nigeria attended to only 38 percent of deliveries[317]. A maternal mortality ratio of 545 per 1000 live births was estimated by the Health Survey and the Demographic, with real values ranging from 475 deaths in the South-western zones to 615 deaths in the North-eastern zones per 1000 live births. The estimated figure falls short of the actual figures reported, which is 630 per 100,000 live births. Women in the North have the highest risk of dying from pregnancy

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[315] See World Health Statistics (2013) World Health Organisation, Switzerland, pp. 1-172.
[316] See National Population Commission (NPC, 2009) Nigeria, "ICF Macro Nigeria Demographic and Health Survey 2008" USA, pp. 1-661.
[317] Ibid.

and delivery complications than South Nigeria[318]. Other socio-economic inequality includes income inequality and opportunities that have been growing rapidly and affected poverty reduction. Due to the unprecedented level of Boko Haram activity in the North, which is also responsible for the lack of economic development, it further led to income inequality. According to Bentham, "all inequality that has no special utility to justify it is injustice". This indicates that inequality has been with man from time immemorial, and it is equally an unwholesome phenomenon in all its ramifications. Section 16(2) of the 1999 Constitution of the Federal Republic of Nigeria states that:

> "The State shall direct its policy towards ensuring the promotion of a planned and Balanced economic development; that the material resources of the nation are Harnessed and distributed as best as possible to serve the common good; that the Economic system is not operated in such a manner as to permit the concentration of wealth or the means of production and exchange in the hands of few individuals or of a group, and that suitable and adequate shelter, suitable and adequate food, Reasonable national minimum living wage, old age care and pensions, and unemployment, sick benefit and welfare of the disabled are provided for all citizens"

From the provisions of the Nigeria Constitution and other international human rights treaties, it is characteristically clear that inequality is a critical and ubiquitous phenomenon in addressing Nigeria's development challenges. There are constitutional provisions for tackling inequality, and now the question is, in what ways can a Human Rights Base Approach be applied to achieve development outcomes? Though we know that income inequality is relative and that all nations of the world manifest some degree of income inequality in one degree or the other, Nigeria"s case is outrageous. According to Soludo, a former Governor of the Central Bank of Nigeria who argued that Nigeria has the highest income inequality

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[318] Ibid, 325

globally, using the Gini co-efficient, and as a result contributed to Nigeria‟s development challenges.

Another index of disparities between North and South Nigeria is the level of poverty. Nigeria has one of the world's highest economic growth rates, but over 100 million Nigerians representing 60.9 percent of the population, currently live below the poverty line, according to the United Nations (UN). Nigeria became the poorest country overtook India, with the most people in extreme poverty living on less than $1.90 according to the World Bank[319]. The table[320] below illustrates the level of poverty between 1980 and 2010 in Nigeria.

Year	Non-Poor	Moderately Poor	Extremely Poor
1980	72.8	21.0	6.2
1985	53.7	34.2	12.1
1992	57.3	28.9	13.9
1996	34.4	36.3	29.3
2004	43.3	32.4	22.0
2010	31.0	30.3	38.7

The Figure below illustrates the level of poverty in North and South Nigeria, particularly the poor's concentration in the North. It has been established that one-third of Nigeria's poor are concentrated in the north-west and north-east states this include Kano, Kaduna, and Sokoto[321]. The most dangerous fault line in addressing Nigeria‟s development challenges is the enduring pattern of inequalities between North and South Nigeria. The bar chart below further illustrates the level of poverty in North and South Nigeria.

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[319] See the World Bank Report on poverty eradication
[320] NBS Harmonised Nigeria Living Standard 2010
[321] See Nigeria‟s National Bureau of Statistics 2015

BARCHAT:
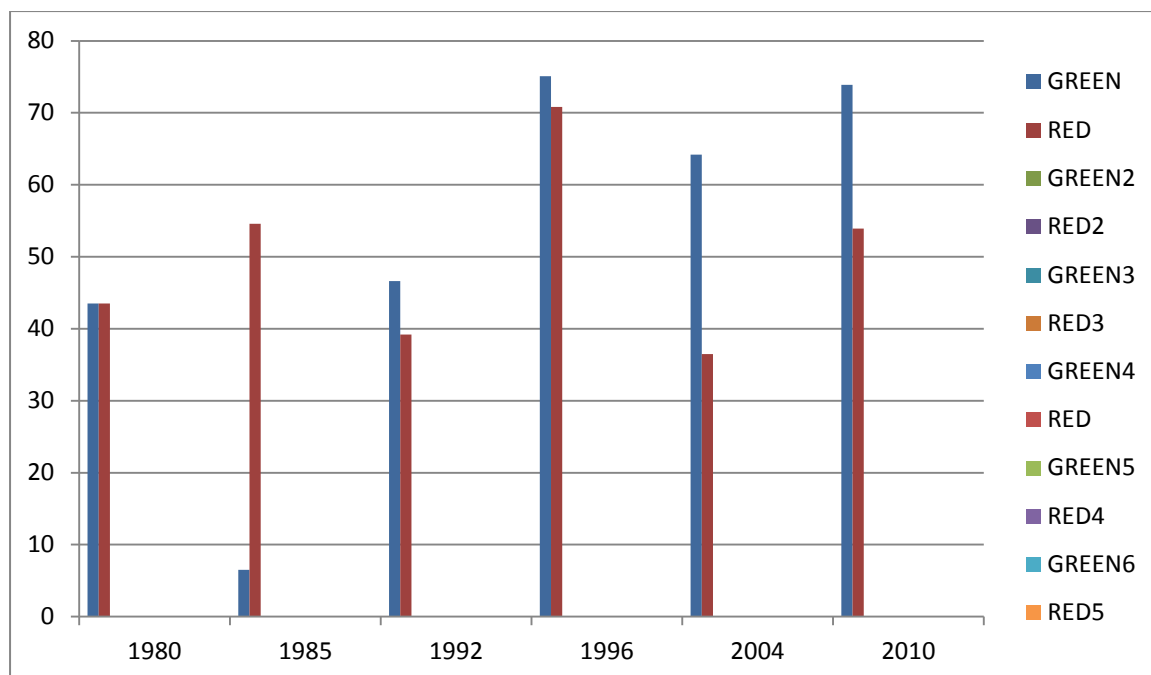
4.11. Lack of Evidence Based Intervention

To determine the outcome of any intervention requires the availability of quality data, which allows for an effective assessment. The use of technology is vital in gathering and analysis of data on a large scale. This is necessary to determine the trends and help give an insight, peradventure there is a shift in the agreed objective, which will allow for adjustment to be made. According to Sach, the most often reported challenges regarding the implementation of MDGs are the non-availability and reliability of data, which subsequently hinders the interpretation of progress reports. Besides, measuring and evaluating the progress made in attaining the Sustainable Development Goals (SDGs 3 and 4) in Nigeria required measuring Key Performance Indicators (KPIs). Presently, this is yet to be defined. The task of monitoring and evaluating the Key Performance Indicators (KPIs) used to determine the level of progress cannot be underestimated because it requires the availability of disaggregated, comprehensive and up-to-date, and reliable data measure them. Accelerating development

that is "economically sound, socially inclusive and environmentally" sustainable is a defining challenges facing Nigeria as a nation state and the world at large. In light of the foregoing, implementing the substantive goals SDG 3 and 4, otherwise known as Human Development and their Indicators (HDIs), will require new approaches that will embrace all the key features of HRBAs. The next chapter of this thesis will focus on understanding barriers and challenges to the use of a human rights-based approach in addressing development challenges in Nigeria.

CHAPTER FIVE:

UNDERSTANDING BARRIERS AND CHALLENGES TO THE USE OF A HUMAN RIGHTS--BASED APPROACH IN NIGERIA

There are different types of barriers and challenges to using a human rights-based approach in addressing Nigeria's development challenges, particularly poor human capital development. According to the preface to its 2016 Human Capital Report, the World Economic Forum[322] states that " A nation"s human capital endowment-the knowledge and skills embodied in individuals that enable them to create economic value-can be a more important determinant of its long-term success than virtually any other resources". The World Economic Forum further states that "a human-centric vision of the future of work that recognises people"s knowledge, talents, creativity, and skills as critical drivers of a prosperous and inclusive economy[323]". The major pillar of the Sustainable Development Agenda is to "leave no one behind" and in a bid to achieve this, there is need to enhance social inclusion in North and South Nigeria by addressing region-specific exclusion challenges particularly in the North East and Niger Delta in the South. According to Hickey and Mitlin[324] who states that "a human rights-based approach to development tends to make development debates and action more political, but also that this approach strengthens law and legal arguments in development action." They also argued that the use of human rights-based approach could aid in the "ideological and legal resources, which local, vulnerable or the marginalised groups can use to address the issue of exclusion, inequality and discrimination[325]". It is imperative that the Nigeria government should address those barriers and challenges that hinder the opportunities for women, girls, and the Almajiris in the rural North to participate in development process. In this chapter, this thesis will argue that addressing the barriers and

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[322] See the Report on the World Economic Forum 2016
[323] Ibid
[324] Hickey and Mitlin, (2009)," Rights-Based Approaches to Development" Ch. 12. At 225
[325] Ibid

challenges to using a human rights-based approach will help address Nigeria's development challenges, particularly poor human capital development/investment.

5.1 BARRIERS TO THE USE OF A HUMAN RIGHTS-BASED APPROACH IN NIGERIA

The United Nations over the years has made substantive efforts in a bid to identify and remove the barriers to the "realisation of the right to development[326]". However, addressing Nigeria"s development challenges is overwhelming. Development in Nigeria is curtailed as a result of several indices, which could act as barriers to using a human rights-based approach in addressing development challenges in Nigeria. The following are some of the barriers to using Human Rights-Based Approach to development in Nigeria.

5.2. The lack of Implementation and Enforcement of Laws and Policies

The effectiveness of any law depends on how well implanted and enforced. According to DeGroff and Cargo who states that "implementation is an iterative process in which ideas, expressed as policy, are transformed into behaviour, expressed as social action". Addressing development challenges depends on transforming the policy's social action, which aims to make the country achieve positive development outcomes. In Nigeria, the lack of implementation and enforcement of laws and policies could be a barrier to using a human rights-based approach because many laws are laid down without effective implementation. A piece of legislation will face implementation challenges due to a lack of enforcement and selecting the proper enforcement authority and mechanism to achieve development outcomes. From an international law perspective, Nigeria must respect, protect and fulfil her citizen's rights to education and health, the two primary components of human capital development as a ratifying state by ensuring the availability, accessibility, affordability, acceptability, and

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[326] See Article 2, 7,8,11, and 12 of the Convention on the Elimination of Discrimination against Women (CEDAW)

quality and ensuring that it is in accordance with the broader principles and standards of human rights law. As discussed in chapter four (4) of this thesis, the citizens or their representatives as the rights holders can seek redress locally if the government of the Federal Republic of Nigeria as the duty bearer violates these rights through a "national human rights enforcement system", which may include the "national human rights commission and human rights legislation". Further, as argued in chapters one (1) and (4) of this thesis, social, economic rights, such as education and health, which are the provision of chapter two of the constitution, are subject to judicial review. However, no action may be instituted being Directive Principles in seeking enforcement of any of the provisions due to section 6(6)(c), limiting or making it non-justiciable in a court of law. The right to education and health as social economic rights may be justiciable if the "National Assembly exercise its legislative prerogative" under the Constitution. Section 4 states that (1) "The legislative powers of the Federal Republic of Nigeria shall be vested in a National Assembly for the Federation, which shall consist of a Senate and a House of Representation" and two (2) states that "The National Assembly shall have power to make laws for the peace, order and good government of the Federation or any part thereof with respect to any matter included in the Exclusive Legislative List set out in part 1 of the Second Schedule to this Constitution[327]".

The authority of the National Assembly is extended by Part 1 of the Second Schedule to the Constitution to include: 60 which states that "the establishment and regulation of authorities for the Federation or any part thereof" and (a) states that "to promote and enforce the observance of the Fundamental Objectives and Directive Principles contained in this Constitution". In light of the foregoing, the National Assembly may, according to 60(a) confer justiciability status to the "Directive Principles" in chapter 11 of the Constitution.

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[327] See Chapter 10 of the Nigeria Constitution.

In addition, the Ratification and Enforcement Act of the African Charter on Human and Peoples" Rights was enacted by the National Assembly, thereby "incorporating" the Charter into "domestic law"[328]. According to Section 1 of the Act which states that "the provision of the African Charter have force of law in Nigeria and shall be given full recognition and effects and be applied by all authorities[329]" In line with the above, Nnamuchi[330], posits that:

> "The incorporating Act did not desegregate the rights but imported verbatim et Literal meaning [word for word and letter for letter] the full text of the Charter, meaning that all the rights accorded recognition by the Charter-Civil and Political, Socio-Economic and Cultural as well as solidarity rights-presently constitute part of the domestic law of Nigeria".

In addition, according to Bello, the Supreme Court of Nigeria's chief justice in Nemi v The State, the court held that the "absence of an enforcement procedure in the Charter does not constitute an impediment to the enforcement of its rights[331]". He further states that;

> "Since the Charter has become part of our domestic law, the enforcement of its provisions like all our other laws falls within the judicial powers of the courts provided by the Constitution and all other laws relating thereto."[332]

To effectively implement a human rights-based approach in addressing Nigeria's development challenges, particularly human capital development, there is a need for effective

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[328] See Chapter 10," law of the Federation of Nigeria 1990".
[329] See Section "1 of the Act".
[330] Nnamuchi, O. (2008)," Kleptocracy and its Many Faces: The Challenges of Justifiability of the Right to Health Care in Nigeria.
[331] See 1994 (1 LRC 378)
[332]Viljoen, D.F. (1993)," Application of the African Charter on Human and Peoples" Rights by Domestic Court in Africa" 43 Journal of African Law 1 at 10.

implementation and enforcement. According to Lincoln, "law without enforcement is just good advice". The next section will examine the negative consequences of globalisation as a barrier to the use of human rights-based approaches in addressing Nigeria's development challenges.

5.2.1. Globalisation and its negative consequences

> "As a new context for and a new connectivity among economic actors and activities throughout the world, globalisation has been made possible by the progressive dismantling of barriers to trade and capital mobility, together with fundamental technological advances and steadily declining costs of transportation, commination and computing. Its integrative logic seems inexorable, its momentum irresistible" (Kofi Annan)

Louka[333] posits that globalisation is responsible "for the increasing gap between the rich and the poor and the unfair labour standards in the developing world". The adverse consequences of globalisation on using the human rights-based approach can be seen based on the limitation it's placed on the enjoyment of a multidimensional human right. In other words, the Civil and Political Rights and the Economic, Social, and Economic Rights are affected. The negative consequence of globalisation is one aspect of human rights, for example, the economic rights undeniably have an impact on other rights. According to Oloka-Onyango and Udagama[334] "this reality reinforces the principle enunciated in the 1993 that human rights are universal, indivisible, and interdependent and interrelated". The widening economic gap between North and South Nigeria is a direct consequence of globalisation, particularly human capital development. The violation of various rights guaranteed by various Covenants,

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[333] Louka, E. (2006)," International Environmental Law: Fairness, Effectiveness and World Order". Cambridge University Press, UK.
[334] Oloka-Onyango, J and Udagama, D. (1999)," The realisation of economic, social and cultural rights: Globalisation and its impact on the full enjoyment of human rights" Preliminary report, Sub-Commission resolution.

particularly on the rights to an adequate standard of living, includes sufficient food, clothing, and housing. It also entails the right to quality education and a high standard of physical health and mental health. The right to development process can "provide a framework based on the implementation" of a human rights-based approach to development. De Feyter[335] states that "in order to be universal and remain relevant, human right law must protect those marginalised by the exigencies of globalisation by empowering local peoples". Women, girls, and the Almajiris in the North are the major distinct groups upon whom globalisation's impact has been mostly felt in Nigeria. Whilst it is important to note that globalisation offers great "opportunities," the full enjoyment of all human rights in Nigeria is affected because its "benefits are unevenly" shared and its "costs unevenly "distributed. The barrier to using human rights-based approach should be addressed to enhance their benefit and mitigate their negative consequences on the marginalised group in North and South, particularly women, girls, and the Almajiris in the North. The next section will examine the lack of respect for all human rights as a barrier to using the human rights-based approach in addressing Nigeria's development challenges, particularly human capital development.

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[335] De Feyter. (2005), "Human Rights: Social Justice in the age of the market". Zed Books.

5.3. Lack of Respect for All Human Rights

> "To deny people their human rights is to challenge their very humanity (Mandela)
>
> In each situation we confront, a rights-based approach requires us to ask: What is the content of the right? Who are the human rights-holders? Who are the corresponding duty-bearers? Are rights-holders and duty-bearers able to claim their rights and fulfil their responsibilities? And if not, how can we help them to do so?" (Robinson, former United Nations High Commissioner for Human Rights[336])

In light of the above, the human rights of the citizens must be put into consideration to achieve sustainable development goals without any distinction as to race, sex, language, or religion, and such rights must be indivisible and interdependent[337]. In Nigeria, the history of human rights predates colonial rule. In traditional Nigerian societies, human rights and fundamental freedoms were recognised; however, the idea of rights was not conceived in the modern notion. For example, "right to family, kin and clan membership, freedom of thought, speech, belief, right to enjoy private property and right to participate in governance" of the affairs of the state were jealously guarded. However, the right to association, freedom from discrimination, and equality rights were hardly respected due to a believed system that "all men were not born equal as there were slaves and sons of the land, outcastes and freeborn". Also, in the North, Sharia legal system was firmly entrenched in the Nigeria Constitution, and human rights and fundamental freedoms were "specifically protected and guaranteed" in accordance with Islam which "hold justice and equity in high esteem". A new set of rights was introduced with the advent of Colonialism; however, it denied Nigerians of their political and economic rights to a great extent. For the first time in 1922, limited franchised was

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[336] Mary Robinson the former United Nations High Commissioner for Human Rights cited in European Network of National Human Rights Institutions (ENNHRI)
[337] See Article 6 (1) and 6 (2) of UNDP.

introduced through the Clifford Constitution by the Clifford Colonial government. An enhanced political right in the pre-independence constitution was made possible as a result of the struggle for better political participation by early Nigerian nationalists, who later resulted in the Lyttleton Constitution of 1954. In a bid to create a society which "protects political freedom" as well as the "social and economic well-being" of Nigerians, human rights provisions were entrenched in our Constitution as discussed in chapter one of this thesis. However, Nigeria has had the misfortune of military rule despite the guarantee of fundamental rights and liberties in the Nigerian Constitutions since 1960. The impact of military has had "far-reaching effects on the promotion" and protection of "democratic values and fundamental freedoms". Further, successive military regimes systematically violated Nigerians' rights and freedoms with impunity before the new dawn of democracy in Nigeria in 1999. Between November 1994 and June 1998, Nigeria recorded an unprecedented level of human rights denial. This is a serious barrier to the use of human rights-based approach in addressing Nigeria's development challenges, particularly human capital development.

5.4. Challenges to the use of A Human Rights-Based Approach to Development in Nigeria

> "For 50 years, we tinkered with a welfarist approach. Development Institutions were created to manage the effort, and billions of dollars were poured into the struggle. Despite some real achievements, the gap between the rich and poor is widening, the numbers of people in poverty are increasing in many parts of the world, and hundreds of millions are trapped in conditions that pose long-term dangers to the welfare of everyone" (The World Development Report, 2000/21[338])

> "The seriousness of deepening poverty and widening inequity is evident as nearly one half the world"s people live on less than $2 per day, and the fifth live on less than $1. Income disparities have widened within countries-North and South- and the gap between the world"s 20 richest and 20 poorest countries has more than doubled from 1960 to 1995" (World Bank, 2000[339])

In light of the above, there continues to be variation in how the Human Rights-Based Approach is understood and used over the last decade despite the development of the UN Common Understanding in relation to SDG 3 good health and well-being, particularly sexual and reproductive health and SDG 4 quality education[340] the two major pillars of human capital development. Pillar[341] states that "the office of the High Commissioner for Human Rights has repeatedly emphasised the need to operationalize human rights and incorporate them into the implementation of programmes as a mechanism for making rights easier to claim and understand, and thereby be more effective".

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[338] See The World Development Report, 2000/21
[339] See The World Bank Report 2000
[340] See United Nations Development Group Report (2003)
[341] Pillay, N., (2013)," UN High Commissioner for Human Rights: Human Rights in the Post-2015 Agenda "Open letter to all Permanent Missions in New York and Geneva.

In a human rights-based approach to development, justiciability of the right to education and health is an essential tool. However, it is not easily and necessarily implementable even whilst it is a strength. According to Cornwall and Nyamu-Musembi[342] who states that:

> "Recourse to justice through human rights mechanism tends to be via individual mechanism, which can be challenging both in terms of the ability of marginalised individuals to pursue claims as most poor people have little access to the institutions that might enforce their rights and that the interface between different legal systems governing their access to entitlements makes the process of recognising and claiming rights complex".

The use of A Human Rights-Based Approach to Development in addressing Nigeria development challenges particularly Human Capital Development/Investment has faced, many challenges such as the lack of good governance, lack of transparency and accountability, judicial performance, lack of access to justice for all, lack of institutional capacity, inequality and discrimination, humanitarian crisis and IDPS lack of human right based participation, lack of monitoring and evaluation, lack of human rights education, and lack of quality education. The next section examines the various challenges of using a human rights-based approach to address Nigeria's development challenges.

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[342] Cornwall, A., and Nyamu-Musembi, C. (2004)," Putting the Rights-Based Approach to Development into Perspective Source: Third World" Quarterly, Vol. 25, No 8, PP.1415-1437. Published by Taylor and Francis, Ltd

5.5. Governance

> "Good governance is perhaps the single most important factor in eradicating poverty and promoting development. Good Governance is ensuring respect for human rights and the rule of law, strengthening democracy; promoting transparency and capacity in Public Administration" (Kofi Annan)

As discussed briefly in chapter one of this thesis, the concept of governance is in respect to the public sector or state systems, and it is in reference to the core instruments of public service and deliberations, according to Grindle[343]. In line with the above, Chhotray and Stoker posit that governance is a precept of inclusive decision-making in contexts where there are multiplicities of actors or assemblies. No explicit control mechanism can determine the modalities of relationships between the actors and assemblies. Governance, from the World Bank perspective, as posited by Leftwich[344] is regulative and jurisdictional; on the other hand the governance paradigm of the Western nations has the same aspects as those of the World Bank but also places a premium on inclusive democratic politics. Governance according to the World Bank is[345] "a system through which power is exercised in the management of a country"s political, economic and social resources for development". The definition of governance as offered by the World Bank is far from being true in third world countries like Nigeria but applicable to the developed countries of the world. The concept of governance differs significantly within institutions and amongst scholars; however, they all focus on governing, which could involve either a State or an Institution. According to

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[343] Grindle, M.S. (2010)," Good Governance: The inflation of an Idea", Faculty Research Working Paper Series", PP.1-21

[344] Leftwich, A. (1993)," Governance, Democracy and Development in the Third World", Third World Quarterly, Vol. 14, No.3, Democratisation in the Third World (1993), PP. 605-624.

[345] See World Bank Report (1993)," Governance, Washington, D.C: World Bank

Rhodes[346], governance refers to the new process of governing, a changed condition of ordered rule, the new method by which a society is governed. What then is good governance?

5.6. Good Governance

In the course of international development dynamism, the notion of good governance developed, primarily due to the overarching failures of structural adjustment programs, the growing need to bring to par the reformations in the commonwealth independent states, and the increasing influences of the Asian tiger nations according to Reif[347]. Good governance also applies more substantial requirements in the decision-making process and formulation of public policy. The qualitative principles of good governance are active participation in public policy-making, recognizing the rule of law and independent legislature, a fair judiciary system, and institutional checks and balances through the separation of powers. UNDP posit that:

> "Good governance is …. participatory, transparent and accountable. It is also effective and equitable and it promotes the rule of law. Good governance ensures that political, social and economic priorities are based on broad consensus in society and those voices of the poorest and the most vulnerable are heard in decision-making over the allocation of development resources"[348]

From a human rights-based perspective, citizen participation is vital for good governance to be achieved, arguably. Participation means that all men and women's voices should be considered in the decision-making process. Participation should be organised and informed,

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[346] Rhodes, R. (1996)," The New Governance: Governing Without Government", Political Studies, xivi, PP. 652-667
[347] Reif, L., (2004)," The ombudsman, good governance, and the international human rights system", The Netherlands: Martinus Nijihoff Publishers.
[348] See United Nations Development Programme Report (2010)

either directly or through legitimate institutions representing their interest. Good governance from the European Union perspective is refers to the:

>"Rules, processes and behaviour that affects the way in which powers are exercised at the European level. In the context of a political and institutional environment that protects human rights, democratic principles and the rule of law, good governance is the transparent and accountable management of human natural, economic and financial resources for the purpose of equitable and sustainable development"[349]

The following are the principles of good governance; participation, the rule of law, transparency, responsiveness, consensus-oriented equity and inclusiveness, effectiveness and efficiency, and accountability according to ESWA[350].As stated above, the lack of good governance is a challenge to the use of a human rights-based approach to addressing Nigeria‟s development challenges. Therefore, what is lack of good governance?

5.7. Poor Governance

Poor governance is one of the causes of Nigeria's problem as a nation. For example, the citizens are not allowed equal opportunity and freedom to participate in the political and development process. Poor governance is a major challenge to using a human rights-based approach in addressing Nigeria's development challenges, particularly human capital development/investment. Sen posit that „unfreedom‟ leaves the citizen with little choice to exercise „their reasoned agency‟. He argued that "freedoms are not only the primary ends of development; they are also among its primary means. Thus development in social, political and economic) requires the removal of major sources of freedom. Poor governance lacks accountability. In order words, the system lack checks and balances to control the autocratic

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[349] Aktan, C., and Ozer, H. (2008)," Good Governance
[350] See ESCAP (2000)," Human Settlement, a Society‟s Wellbeing"

tendencies in government and to hold political actors accountable for their actions. To ensure accountability in the implementation of the sustainable development goals in Nigeria, transparency and the rule of law must be in place. According to Abdellatif[351], poor governance involves the lack of the "exercise of economic, political and administrative authority to manage a country"s affair at all levels, it lacks the mechanisms, process and institutions through which citizens and groups articulate their interests, exercise their legal rights, meet their obligations and mediate their differences". Poor governance act as a challenge to ensuring that political, social and economic priorities which are based on broad consensus in Nigeria and that the voice of the poorest or marginalised and the most vulnerable women, girls and the Almajiris in the North are denied in decision-making over the allocation of development resources. The lack of transparency in decisions taken and their enforcement defiles rules and regulations. Information is not readily available and equally not accessible to those marginalised particularly women, girls, and the Almajiris in the North. In addition, the lack of equity and inclusiveness is also a serious barrier to the use of human rights-based approach in addressing Nigeria"s development challenges, particularly human capital development/investment. The marginalised group, women, girls, and the Almajiris in the North are excluded from the state's mainstream. They are denial the opportunities to improve or maintain their wellbeing compared to the South. According to the World Bank Report, the following are the symptoms of poor governance "failure to make clear separation between what is public and what is private; failure to establish a predictable framework of law and government behaviour conducive to development or arbitrariness in the application of rules and laws; executive rules, regulations, licensing requirements and so forth, which impede functioning of markets and encourage rent seeking; priorities inconsistent with development, resulting in a misallocation of resources and excessively narrowly based or

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[351]Abdellatif, A.M. (2003)," Good governance and its Relationship to Democracy and Economic Development", Global Forum 111 on Fighting Corruption and Safeguarding Integrity, PP. 1-27.

non-decision making[352]". Poor governance denies civil society the opportunity to play an active role in setting priorities and making the needs of the most vulnerable in the society known and according to Maguire and Cheema Et al[353], poor governance denies the citizens the opportunity to expand their choices in the way they live, promote freedom, poverty, discrimination, and women"s advancement. In light of the foregoing, poor governance is a challenge to the use of human rights-based approach to addressing Nigeria"s development challenges, particularly human capital development. However, it is evident that good governance is a key to implementing sustainable development goals, particularly SDG3 good health and well-being and SDG 4 quality education in North and South Nigeria. The next challenge to using a human rights-based approach in addressing Nigeria"s development challenges is the lack of transparency and accountability.

5.8. The lack of Transparency and Accountability /Corruption

> "Let us be clear. Corruption kills. The money stolen through corruption every year is enough to feed the world"s hungry 80 times over. Nearly 870 million people go to bed hungry every night, many of them children; corruption denies them their rights to education, health, food and in some cases, their right to life. A human rights-based approach to anti-corruption response to the people resounding call for a social, political and economic order that delivers on the promises of freedom from fear and want" (Navi Pillay[354])

> "Corruption undermines democracy and the rule of law. It leads to violations of human rights. It erodes public trust in government. It

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[352] See the World Bank Report (2010)

[353] Cheema, G. Shabbir and Maguire Linda (2002)," Democracy, Governance and Development": A Conceptual Framework, PP. (1-24).

[354] NaviPillay United Nations High Commissioner for Human Rights statement on the Human Rights Case Against Corruption.

can even kill- for example when they accepts bribes that enable
terrorist acts to take place "(Ban ki-Moon[355])

To understand how political corruption impedes sustainable development and good governance in Nigeria, it is essential to establish what corruption is in place. For this thesis, corruption will be referred to as political corruption, that is, corruption involving public officeholders. Ogundiya identified the difficulty faced in discussing corruption matters analytically due to the lack of a specific definition. However, he points out certain guidelines with which corruption is viewed, namely, according to law, public opinion, and public interest. Definitions based on legal criteria generally hold corruption to include any illegal acts carried out by public officials. The two criteria tend to hold a wider view of corruption as including any acts that the general public perceives to be wrong or against their interest[356]. Although corruption is a global scourge, Nigeria appears to suffer the most from it because the leaders are pathologically or absolutely corrupt. According to Smith[357]. Over the years, Nigeria has earned a huge sum of money from crude oil, which has gone down the sinkhole created by corruption. Nigeria"s problems are not from the "harshness and the niggardliness of nature[358]" but corruption that prevents the society from investing in human capital development, particularly education and health, which is responsible for the technological capability to drive the economy, create employment and ensure the implementation of the sustainable development goals in North and South Nigeria. After the civil war, seven military regimes, and three botched attempts at building real democracy, the one connecting factor in the failure of all attempts at making Nigeria a global contender is corruption. The history of countries like Nigeria, Kenya, and the Democratic Republic of Congo, where corruption has

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[355] See Ban Ki-Moon United Nations Secretary-General speech at the Human Rights Case Against Corruption
[356] Ogundiya, S.I. (2009), "Political Corruption in Nigeria: Theoretical Perspective and Some Explanations", Anthropologist, Vol. 11 (4), PP. 281-292
[357] Smith, D.J. (2008)," A Culture of Corruption". Princeton and Oxford: Princeton University Press.
[358] Keynes, J.M. (1932)," The World"s Economic Outlook", The Atlantic Monthly, May. Available at www.theatlantic.com/unbound/flashbks/budget/keynesf.htm.Accessed 8 December 2019.

been institutionalised, offers an adequate illustration of the wrong road to sustainable development in North and South Nigeria. In comparative terms, the provision of infrastructural facilities by countries which were on equal threshold of development with Nigeria in the early 60‟s such as South Korea, Malaysia, Indonesia, Brazil and Singapore, are no more a challenge now because these countries have attended a higher level of development, leaving Nigeria behind.

In addition, the negative impact of corruption has been increasingly recognised in recent years both by the regional organisation and the United Nations on the enjoyment of human rights. Corruption as a challenge to the use of a human rights-based approach has been identified by the special procedures and treaty bodies as a critical factor contributing to the "failure of States" to satisfy their human rights obligation. The consequences of corruption are felt on human rights due to its interdependent and indivisible nature of both the civil and political rights and the economic, social, and cultural rights in addition to the right to development. The progressive realisation of rights recognised in Article 2 of the International Covenant on Economic, Social, and Cultural Rights is undermined due to corruption, which hiders a State's human rights obligation to maximise available resources.

> "The corrupt management of public resources compromises the State‟s ability to deliver services, including health, education, and welfare, which are essential for the realisation of economic, social and cultural rights. Corruption leads to discriminatory access to public services in favour of those able to influences authorities, including by offering bribes. Economically and politically disadvantaged groups and persons suffer disproportionately in these circumstances, because they are most dependent on public

services but least able to influence state policies and corrupt officials"[359].

In light of the foregoing, corruption in Nigeria is a challenge to using a human rights-based approach to address the country's development challenges, particularly human capital development, education, and health vis-à-vis implementing the sustainable development goal, or 2030 development agenda. The lack of transparency and accountability has been a significant challenge since late 1980 to the development of the educational system in Nigeria. According to Ribadu, former Military President Ibrahim Babangida, Sanni Abacha, and Abubakar institutionalised corruption as the vital principle of governance in Nigeria. Former President Obasanjo[360] opined that:

> "The decline we noticed in the education sector today also started in that period. The shameless not in the aviation sector, the absence of an efficient public transport system, the collapse of our public schools, the thievery in the ports and the decay in our health care delivery system all of which huge sums had been budgeted and spent are a direct reflection of the poverty of leadership of that era".

Further, the fragile and debilitated infrastructure left behind as a result of military intervention in politics is strong evidence that the "unwanted foray of the military" still hunt the state, and this is evidence[361] in Hargreaves article:

> "Nigeria once herald as the beacon of Africa, has fallen somewhat short of this potential. Years of corruption repressive dictators and military rule, coupled with widespread corruption, have resulted in large-scale neglect and deterioration of public services. Nowhere in this more apparent than within the health sector: Government-

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[359] United Nations Human Rights office of the High Commissioner on the Human Rights Case Against Corruption.
[360] See Ribadu, N. (2006)," Corruption the trouble with Nigeria"
[361] Hargreaves, S. (2002)," Time to Right the Wrongs: Improving Basic Care in Nigeria",

run health-care services barely function….[in] a country that is more than capable of providing effective services… The challenges to the new civilian government are monumental, and it is yet to show any solid commitment to improving the health of Africa‟s biggest nation".

In light of the foregoing, corruption acts as a challenge to the use of the human rights-based approach because it pervades governments and legal systems, law and enforcement, which compromises the right to equality. It also undermines marginalised groups such as women, girls, and the Almajiris in the North to achieve development outcomes. To ensure that a human rights-based approach effectively addresses Nigeria's Development challenges, particularly human capital development, there is a need for an efficient anti-corruption strategy that key human rights principles will inform. The next challenge to using the human rights-based approach is judicial performance.

5.9. Judicial Performance

Development requires more than just sound economic policies. By fairly and efficiently resolving disputes, courts provide no excludable benefit for the greater collective public that contributes to development, according to North and Thomas[362]. In upholding the rights to health, particularly women, girls, and children and the right to education, the judiciary has an important role to play by ensuring that the judiciary contributes to "influencing the understanding" of education and health rights in a "specific domestic context" in Nigeria. The role of the courts is fundamental in the enforcement of human rights, particularly economic, social and cultural rights though legal systems and judicial practices vary across countries and regions. Interpreting legislation is a key function of the judiciary in any area of law and not only in human rights. Judicial performance is measured based on the rate of clearance

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[362] North, D. and Thomas, R. (1973), The Rise of the Western World: A New Economic History. Cambridge: Cambridge University Press.

because the swift resolution of cases is a stated core value in the Nigerian legal system. Section 33 in the 1979 Constitution states that "A person shall be entitled to a fair hearing within a reasonable time by a court or other tribunal established by law[363]". According to Craig, the Supreme Court later amplified this section and interpreted "reasonable time to mean the period of time which, in the search for justice, does not wear out the parties and their witnesses and which is required to ensure that justice is not only done but appears reasonable to persons to be done[364]". The lack of good judicial performance in Nigeria is a challenge to the use of a human rights-based approach in addressing the country"s development challenges, particularly human capital development. As discussed in chapter 4 of this thesis, the marginalized group, women, girls, and the Almajiris in the North as a right holder could seek redress where there is an excellent judicial perforce vis-à-vis access to justice. Delay in judicial performance could act as a challenge to achieving sustainable development goals, particularly in the North due to lack of access to justice, poor judicial performance, and legal pluralism. According to LeVan[365] "Reducing judicial delay in Nigeria is thus necessary both as a political reform that strengthens the rule of law and as an expression of the government"s attitude towards entrepreneurial activity". The central pillar of the sustainable development goal is to leave no one behind. To achieve the 2030 development agenda in Nigeria, the marginalised group, more emphasis and investment in human capital should be directed toward women, girls, and the Almajiris in the North. Another challenge to using the human rights-based approach to addressing Nigeria's development challenges is the lack of access to justice.

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[363]Levan, C.A. (2015), Dictators and Democracy in African Development: The Political Economy of Good Governance in Nigeria

[364]Craig, J. E.B. (1988), Administration of Criminal Justice: Speedy Disposal of Criminal Cases in the Lower Courts. Paper read at All-Nigeria Judges" Conference Papers in 1988 at Abuja.

[365] See LeVan in 455

5.10. The lack of Access to Justice for All

> "The principle of equal justice under law carved into stone over many a court house needs to be translated into action in our world. And we have to realise that gaining real access for all to the justice system is only the beginning of the attainment of justice. Thus, many people who, after a struggle, obtain access to courts find indifference to their concerns; lack of sympathy for their vulnerability; antagonism to their claim of rights. Or they find that the law is completely out of date, with no reform mechanism to improve it and no real interest to repair its injustices and inefficiencies" (Kirby[366], High Court of Australia)

One of the advantages of adopting human rights as a framework for development is that it protects all persons' basic well-being, including those marginalised, vulnerable, or disadvantaged or those not included in participating in the development process. An essential capacity for most people is making claims and demanding accountability, especially when inequality in power is present. According to the UN, "power imbalances can result in unfair health, education or trade policies that protect the interests of one group over another, or lead to abuses of power[367]". Access to justice is essential in the use of a human rights-based approach to addressing Nigeria's development challenges, particularly human capital development. This leads to the question of what is access to justice? According to Gwangudi[368], access to justice simply refers to:

> "The substantive and procedural mechanisms existing in any particular society designed to ensure that citizens have the opportunity of seeking redress for the violation of their legal rights within that legal system. It focuses on the existing rules and

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[366] Kirby, M. (2005) fore word at the United Nations Programming for Justice for All: A Practitioner"s Guide to A Human Rights-Based Approach

[367] UN cited in 458

[368] Gwangudi, M.I. (2002), "Problems Militating Against Women"s Access to Justice in Nigeria" University of Maiduguri Law Journal. Pp. 13-14

procedures to be used by citizens to approach the courts for the determination of their civil rights and obligations. Access to justice is not limited to the procedural mechanism for the resolution of disputes but includes other variable like the physical conditions of the premises where justice is dispensed, the quality of the human and material resources available there act, the quality of justice delivered, the time it takes for the delivery of justice, the moral quality of the dispenser of justice, the observance of the general principles of the rule of law, the affordability of the cost of seeking justice in terms of time and money, the quality of the legal advisers that assist the litigants, the incorruptibility and impartiality of operators of the system"

As a charged concept, access to justice embraced the nature, quality of justice, and the mechanism obtainable in society is therefore apparent and the place of the individual within this judicial matrix. The lack of access to justice for all is a challenge to the use of the human rights-based approach in addressing Nigeria's development challenges, particularly human capital development that is education and health. According to Akinrinmade and Oloyide[369] who argued that access to justice is "undeniably an important barometer for assessing not only the rule of law in any society but also the quality of governance in that society. This brings to focus the present refrain about transparency, accountability and good governance as an effective panacea for socio-economic development". In addition, access to justice is essential for human development and poverty eradication as a result of the link between the two strands or concepts and the following reasons: (1) The marginalised or disadvantaged group such as women, girls, and the Almajiris in the North who suffer from discrimination and human rights violations. (2) Secondly, the marginalised are likely to be affected by crime and illegality because it is difficult for them to seek redress. (3) Thirdly, deprivation such as

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[369] Oloyide, O. and Akinrinmade (2005), "The Best Models for Good Governance in Africa" cited in Guobadia, D. A. and Azinge, E. (2005)," Globalisation, National Development and the Law", Proceedings for the 40th Annual Conference of Nigerian Association of Law Teachers (NIALS) PP.51.

lack of access to education and health can be overcome by the marginalised or vulnerable group such as women, girls, and the Almajiris in the North by using justice mechanism as tools, or by developing "jurisprudence" on access to health, education, or other "economic, cultural" or social human rights. Finally, the risks associated with violence can be reduced by ensuring fair and effective justice systems, which is also critical to implementing sustainable development goals or the 2030 development agenda. The next challenge to using the human rights-based approach in addressing Nigeria's development challenges is the rule of law.

5.11. Rule of Law

In addressing Nigeria's development challenges, using a human rights-based approach to development, the government of the Federal Republic of Nigeria should focus their synergy on improving the rule of law. As discussed in chapter three of this thesis, it is good to have laws and policies that conform to human rights standards. However, if such laws and policies are not implemented, it becomes difficult for the marginalised or vulnerable group to seek redress. As a condition for the achievement of the other SDGs, some developed countries, for example, the Netherlands, have argued for the rule of law to be integrated as a goal in its rights. Some other countries opposed this idea by arguing that "there was no universally agreed model for the rule of law and that the balance had to be struck between promoting the rule of law at national and international level[370]". In light of the above, the "rule of law was subsequently replaced in SDG 16 with access to justice". The next challenge to using a human rights-based approach in addressing Nigeria"s development challenges is legal pluralism and its impact.

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[370] See AIV, (2014)," The Rule of Law: Safeguard for European Citizens and Foundation for European Cooperation", No.87.

5.12. Legal pluralism and its impact

Like other African countries, Nigeria governed itself based on the "legal framework which was solely based on the traditional justice system" which was" informed by the culture and norms "of society. According to the Economic Commission for Africa, "colonisation brought about legal pluralism and this greatly altered the political and social-economic entities of Nigeria and other African governance and institutional structures". In other words, colonisation in Africa, according to Okeke[371] witnessed the "transplantation of European legal system" over customary law. Nigeria and other countries in Africa adopted a system of governance operated by the colonial masters. Okeke[372] posit that "imported laws did not completely eliminate the indigenous laws, instead indigenous (customary) law operated in conjunction with the imported laws". In Nigeria for instance, English law was introduced because the country was colonised by the British Colonialists. According to Ige, legal pluralism involves the "existence of multiple legal systems within one geographical area and its often practiced in former colonies where the law of a former colonial authority may exist alongside more traditional legal systems".

In other words, Nigeria in the post-colonial era, operates base on "two main types of laws, that is the official state law which is an adopted law from the British colonial master, and the non-official laws" known as the indigenous customary law of the people. Legal pluralism could act as challenge to the use of a human rights-based approach to addressing Nigeria development challenges due to her ethnic composition[373], unclear relationship between customary laws with state law, and "existence" of religious laws[374]. The religious law, also known as the sharia law, is seen as an entire system of guidelines and rules by Muslims

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[371] Okeke, C.N. (2015)," The Use of International Law in the Domestic Courts of Ghana and Nigeria, 32 Ariz. J. Int'I. 7 Comp. L. 371, 381
[372] Ibid
[373] See Otite, O. (1990)," Ethnic Pluralism and Ethnicity in Nigeria" 35-6
[374] Nwauche, E.S. (2010)," The Challenges of the integration and interaction of customary and the received English common law in Nigeria and Ghana. 25 Tulane European & Civil Law Forum 37-40.

which encompasses "criminal law, personal status law, cultural, social and many aspects of religious law". Since 2000, Sharia (Islamic law) has been in force in the North, and its application has so far raised several concerns. In Nigeria, the application of Sharia law violated Nigeria's international obligations and failed to conform to international standards of fairness, and violated individual rights to a fair hearing, thereby breaching the provision within the Nigeria constitution.

Further, there are provisions within Sharia law that discriminate against women, girls, and the Almajiris, both in law and in practice and other aspects of human rights violations in terms of economic, social and cultural rights. The level of poverty in the North is due to politicians' failure to implement the economic and social aspects, particularly human capital development. In a bid to adopt the use of a human rights-based approach in addressing Nigeria development challenges with respect to Sharia law, the federal and state government need to re-examine the application of Sharia law by ensuring that it does not violate human rights to education and health, this would mean amending aspect of the Sharia legislation and rectifying those provisions which constitute inherent violations of fundamental human rights. The next section will evaluate the lack of institutional capacity and its impact on using a human rights-based approach in addressing Nigeria's development challenges.

5.13. The Lack of Institutional Capacity

> "The resilience of nations is manifested in their ability to anticipate and prepare shocks, which, in turn, depends on the technical capacities of organisations and institutions at the front lines of crisis response, the overall functioning of country systems, and the governance structures that „set the rules of the game"[375]

During a period of underdevelopment, nations' ability to anticipate, resilience, and take effective measures in addressing development challenges is an effective tool that must be taken into consideration. The responsibility of fostering development globally is saddle upon institutions. However, the major difficulty is being able to strengthen institutional capacity. Countries relies on ad "hoc and short-term measures" in the absence of institutional capacity to contain the impact of underdevelopment, and a better understanding of institutional capacity forms a building block for sustaining human capital development. The lack of institutional capacity is a challenge to the use of the human rights-based approach in addressing Nigeria's development challenges, particularly human capital development. Critics and supporters of development assistance argued that development failures result from weak institutional. To achieve the sustainable development goal or 2030 development agenda, there is a need for Nigeria to address the problem of institutional capacity to create opportunities for the marginalised or vulnerable groups such as women, girls, and the Almajiris in the North to achieve development outcomes as those in South Nigeria. Countless development efforts in the North have failed compared to the South in a bid to address inequality and discrimination of the marginalised group such as women, girls, and the Almajiris due to the lack of institutional capacity. To adopt a human rights-based approach in addressing Nigeria's

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[375] See Briefing Paper on Towards Human Resilience: Sustaining MDG Progress in an Age of Economic Uncertainty. Available at www.undp.org.Accessed 20 December 2019.

development challenges in a bid to achieve development outcomes between the North and South there is a need to build institutions". According to Graham[376], institution building is:

> "A catch-all concept that encompasses a wide variety of goals that have always been at the core of overcoming underdevelopment. These goals include enhancing governance, which includes the making and enforcing of rules and laws; improving public administrative and regulatory systems, which includes the provision of public services, such as water and roads; and more efficient and equitable provision of public goods and services, which ranges from education and health".

In light of the foregoing, the lack of institutional capacity has been and will continue to hinder the use of a human rights-based approach in addressing Nigeria's development challenges if not adequately addressed to achieve the sustainable development goals or the 2030 development agenda. The next challenge to using the human rights-based approach in addressing human capital development is the lack of human rights education.

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[376] Graham, C. (20020," Strengthening Institutional Capacity in Poor Countries: Shoring Up Institutions, Reducing Global Poverty. Available at www.brookings.edu.Accessed 20 December 2019.

5.14. The Lack of Human Right Education

> "Human rights education builds knowledge, skills and attitude
> prompting behaviour that upholds human rights. It is a process of
> empowerment which helps identify human rights problems and
> seek solutions in line with human rights principles. It is based on
> the understanding of our own responsibility to make human rights
> a reality in our community and society at large. Empowerment
> through human rights education is about more than just content; it
> can only be achieved if the education process also includes
> participatory learning methods and is relevant to the daily lives and
> lived experiences of learners" (Pillay[377], Former UNHCHR)

In light of the above, lived knowledge and awareness of human rights principles help to develop a "culture of human rights[378]". In other words, the development of a society where individuals are encouraged or privileged and empowered to respect, protect and promote all human rights standards and principles for all. The lack of human rights education is a challenge to using the human rights-based approach in addressing Nigeria"s development challenges, particularly human capital development because the marginalised or vulnerable people are not aware of their fundamental rights. As a result, their human rights and fundamental freedoms are denied due to inequality, discrimination, and deprivation, which placed restrictions on their ability to lead a life of dignity.

To realise the sustainable development goals or 2030 development agenda, the marginalised people such as women, girls, and the Almajiris in the North who have been denied the chance to realise their worth and develop their potential should be addressed by ensuring participation and inclusion in the development process. To counter and prevent human rights violations and abuses of the marginalised group, there is a need to raise awareness of human

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[377] See NaviPillay, Former United Nations High Commissioner for Human Rights foreword on Human Rights Education. Available at www.power-humanrights-education.org.Accessed 23 December 2019.
[378] Ibid

rights through human rights education in the North. It fosters values that promote respect, inclusion, non-discrimination, participation, accountability, and equality between North and South Nigeria. According to Gilmore[379], "we all belong to the one human family and each of us is equally deserving of dignity, respect and justice. Transmission of these core and universal values-and exploration of the implications these hold for our daily lives…. that is the task of human rights education". In addition, human rights education teaches about human rights, through human rights and for human rights and according to Flowers[380]:

> "Its goals are to help people understand human rights, value human rights, and take responsibility for respecting, defending, and promoting human rights. An important outcomes of human rights education is empowerment, a process through which people communities increases their control of their own lives and the decisions that affect them. The ultimate goal of human rights education is people working together to bring about human rights, justice, and dignity for all".

No individual can survive alone without human rights, and injustice diminishes the quality of life at a personal, local and global level. No individual can survive alone without human rights, and injustice diminishes the quality of life at a personal, local and global level. The lack of human rights education in Nigeria is a challenge to using a human rights-based approach in addressing the country's development challenges, particularly human capital development, because human rights are moral rights and international law legal rights. In line with this, Article 26 of the Universal Declaration of Human Rights states that:

> "Everyone has a right to education and that education shall be directed to the full development of the human personality and the strengthening of respect for human rights and fundamental

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[379] See Kate Gilmore United Nations Deputy High Commissioner for Human Rights foreword in Human Rights Education. Available at www.power-humanrights-education.org.Accessed 23 December 2019.
[380] Flower, N. (2016)," Human Rights Here and Now: Celebrating the Universal Declaration of Human Rights"

freedoms. It shall promote understanding, tolerance and friendship among nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace"[381].

The General Assembly, in December 2011 adopted the UN Declaration on Human Rights Education and Training. This is regarded as "ground-breaking" because it is tailored specifically to Human Rights Education and is a key tool for raising awareness and advocacy in relation to Human Rights Education[382]. In light of the above declaration, it is instructive to note that the declaration identifies that:

> "Everyone has the right to know, seek and receive information about all human rights and fundamental freedoms and should have access to human rights education and training and that human rights education and training is essential for the promotion of universal respect for and observance of all human rights and fundamental freedoms all, in accordance with the principles of the universality, indivisibility and interdependence of human rights"[383].

Individuals and communities are empowered due to the knowledge of rights and legal issues to participate in democratic settings, "gain access to public services" and "their fundamental rights". Human rights education enables adults to control their lives by re-engaging them in life-long education. Therefore, to adopt human rights-based approaches to addressing Nigeria"s development challenges, the lack of human right education as a challenge needs to be addressed. The next challenge to using the human rights-based approach in addressing Nigeria's development challenges is inequality and discrimination.

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[381] See Article 26 of the universal Declaration of Human Rights
[382] See Council of Europe, Compass: Manual for human rights education with young people. Available at www.inroducing-human-rights-education Accessed 26 December 2019.
[383] Ibid.

5.15. Inequality and Discrimination

> "It was precisely in the sphere of education that regional differences were increasingly manifested under colonialism. And this then had a knock-on effect on the regional formation of human capital and general economic development. Colonial educational policy in Northern Nigeria was driven by two intertwined policies: fear of the development of a class of educated Africans, as was the case in Southern Nigeria and the related attempt to create an alternative Anglo-Muslim aristocratic civilisation in Northern Nigeria. It was Lugard"s view that in Southern Nigeria education had produced men discontented, impatient of any control and obsessed with their own importance"[384].

In light of the above, the emergence of an educational system that might threaten British control was prevented in colonial Northern Nigeria under the pretence of protecting Islam by placing embargo on missionary activities and funding of schools while modern education was in place in the South. According to Barnes[385], educational policy:

> "...was a reflection not of the recognised needs of the peoples of the colony, nor of a rational forecast of the colony"s economic future, but of the social and cultural Fantasies of administrators".

The advantage of this European educational policy puts the South ahead in Western education compared to the North, which led to a destabilising inequality in both education and health attainment in the fabric of the Nigerian state. In line with Barnes, Mustapha[386] argued that "while the geometric gap in educational attainment between the North and the South flowed directly from government policies; other inequalities also emerged, fuelled by differences in geography and natural economic endowments. The combined and cumulative

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[384] Graham, S. (1966), "Government and Mission Education in Northern Nigeria: 1900-1919" Ibadan University Press, Ibadan.

[385] Barnes, A.E. (1997), "Some fire behind the smoke: The Fraser Report and its aftermath in Colonial Northern Nigeria" Canadian Journal of African Studies, Vol.31, No.2. pp.197-228.

[386] Mustapha, A.R. (2006), "Ethnic Structure, Inequality and Government of the Public Sector in Nigeria"

effects of the educational and economic inequalities continue to bedevil Nigeria society to this day". Millennium Development Goals (MDGs), despite recognising the importance of human rights, equality, and non-discrimination, largely bypassed these essential principles for development. It is imperative to note that equality and non-discrimination do not need instrumental justification because, as fundamental human rights, they are legally binding obligations. According to the "Special Rapporteur on human rights to safe drinking water and sanitation", it is imperative to note that these "key guarantees" in particular a growing body of evidence that human rights-based approaches can lead to more sustainable and inclusive development outcomes[387]. Also, Inequality and discrimination have led to an unprecedented level of poverty in Nigeria, as discussed in chapter three of this thesis, particularly in the North compared to the South. Poverty is a multidimensional and dynamic phenomenon. It has become a social problem in Nigeria, particularly in the North, due to poor human capital development. It is an unhappy consequence of unequal income distribution. As a dynamic phenomenon, Townsend[388] regards poverty as a situation where individuals or families are in command of resources which overtime; fall seriously short of the resources commanded by the average family. In other words, this conceptualisation of poverty demonstrates the dynamism of poverty in such a way that as the average standards of the relevant communities" increase, the relative poverty line increases as well. Other commentators in the likes of Black[389] opined that poverty "is the inability to afford an adequate standard of consumption". Ravallion and Bidani state that poverty is the "lack of command overconsumption needs". In other words, it is a situation of an inadequate level of

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[387]See Special Rapporteur Office of the High Commissioner for Human Rights (2012) on the human right to safe drinking water and sanitation. Available at www.ohchr.org/EN/Issues/wATERandSanitation/SRWater/Pages/SRWaterI... Accessed 10, January 2020.
[388] Townsend, R.M. (1997)," Financial Structures in Northern Thai Villages "Quarterly Journal of Economics.60.365
[389] Black, J. (2003)," Oxford Dictionary of Economics, 2nd ed. London: Oxford University Press.

consumption, giving rise to insufficient food, clothing and shelter. Aluko[390] posit that poverty is the lack of certain capabilities, such as being unable to participle with dignity in societal endeavours. United Nations[391] (UN) defined poverty as "a condition characterised by several deprivation of basic human needs, including food, safe drinking water, sanitation facilities, health, shelter, education and information" According to the United Nations Development Programme[392] (UNDP) poverty is widely seen as "encompassing both income and non-income dimensions of deprivation, including lack of income and other material means; lack of access to basic social services such as education, health, and safe water; lack of personal security; lack of empowerment to participate in the political process and in decision that influence an individual"s life".

In alleviating poverty, there is a need to address discrimination and inequality to achieve sustainable development goals. Further, under international law, Nigeria must identify and eliminate discrimination and ensure equality between women, girls, and the Almajiris in the North and other citizens in the South. In light of the above, the sustainable development framework should be based on the principles of equality and non-discrimination, as argued in chapter 4 of this thesis. To repeal discriminatory provisions or address discriminatory practices by the government, there is a need for administrative or legislative reform and a change in resource allocation, education, and health measures between North and South Nigeria. In order to address equitably the social and economic needs of the marginalised, such as women, girls, and the Almajiris in the North, the sustainable development framework should be tailored towards achieving development outcomes by ensuring that targets and indicators in the framework are applied to reduce existing inequalities and entrenched discrimination, while also remaining feasible and implementable. The next challenge to using

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[390] Aluko, S. A. (1975), "Poverty: Its Remedies." In Poverty in Nigeria, the Nigeria Economic Society, Ibadan.
[391] United Nations Report (2016) on poverty and social exclusion. Available at www.un.org/poverty .
[392] United Nations Development Programme (UNDP, 1998), "Nigeria Human Development Report 1998. United Nations Development Programme", Lagos.

a human rights-based approach in addressing Nigeria's development is the lack of a human rights-based approach to participation.

5.16. The lack of human rights-based approach to participation

> "The human rights concepts of empowerment is not something done to people or given to people. It is a participatory process that engages people in reflection, inquiry and action in order to understand the power they themselves have to influence and change their lives. For participation to be truly rights based, development agencies and other actors need to include local stakeholders in every facet of the development process, ensure they understand and have the capacity to make decisions about the project, and respect the right of the local population to deny a project. Beyond being good practice, the concept of participation is firmly rooted in international law" (GI-ESCR, 2014[393])

In light of the above, participation in development since the 1990s has been a widely established practice. In international human rights, a single human right to involvement is not explicitly spelled out. However, different aspects of participation as human rights are stated or outline in numerous international conventions such as women, children, the disabled, and the minorities[394]. In a said development, according to the Declaration on the Right to Development, people not only have an "inalienable right to development, but also to active, free and meaningful participation[395]".Under the General Comment 14: Rights to the Highest Attainable Standard of Health, means that participation is key to the effective provision of health services. The Convention on the Elimination of Discrimination Against Women (CEDAW). Article 7 states that "there should be maximum participation of women on equal

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[393] See Global Initiative for Economic, Social and Cultural Rights-Annual Report (2014-GI-ESCR. Available at https://www.gi-escr.org Accessed 10 June 2020
[394] See A Rights-Based to Approach to Participation-Global Initiative on Economic, Social and Cultural Rights. Available at globalinitiative-escr.org. Accessed 21 January 2020
[395] See UN General Assembly, 1986.

terms with men in all fields" and the preamble specifically "mandating the elimination of discrimination in political and public life". Article 14 states that there should be participation of women "in the elaboration and implementation of development planning at all levels". In addition, Article 13 of the African Charter on Human and Peoples" Rights states that "Every citizen shall have the right to participate freely in the government of his country either directly or through freely chosen representatives[396]" In line with the African Charter, Article 19 of the African Protocol on the Rights of Women[397] seeks to ensure "participation of women at all levels in the conceptualisation, decision-making, implementation and evaluation of development policies and programmes". According to Ife[398], "as a product of the Enlightenment era, the human rights framework is inevitably contextualised within in an essentially Western and modernist framework". One may argue against this critique that the concepts of human dignity and worth, in other words, the idea that every individual should be treated based on certain minimum standards, are included in several other "religious, philosophical and cultural ideologies, including Judaism, Islam, Buddhism, Hinduism, and Christianity" according to Miller[399].

In light of the above, the human rights-based approach to development aims to "take account of local beliefs, traditions, and cultures so as not to impose foreign values on local communities". The lack of human rights-based participation hinders human rights in addressing Nigeria's development challenges, particularly human capital development. The lack of participatory process hinders development actors from gaining a better understanding of the vulnerable group or the marginalised women, girls, and the Almajiris in the North compared to the South. To achieve the sustainable development goals in terms of human

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[396] See The African Charter on Human and Peoples Rights
[397] See The African Protocol on the Rights of Women
[398] Ife, J (2008), "Human Rights and Social Work; Towards Rights-Based Practice" 5.
[399] Miller, H. (2015), "Rejecting Rights-Based Approaches to Development: Alternative engagement with Human Rights "Journal of Human Rights 4. Available at http://dx.doi.org/10.1080/14754835.2015.1103161 .Accessed 26 January 2020.

capital development, that is, health SDG 3 and SDG 4 education, Nigeria requires a highly participatory and inclusive approach to formulate the goals to address her human capital development challenges, particularly in the North. The next challenge to using the human rights-based approach in addressing Nigeria's human capital development challenges is the lack of monitoring and evaluation.

5.17. Lack of Monitoring and Evaluation

> "Accurate and timely health data are the foundation to improving public health. Without reliable information to set priorities and measure results, countries and development partners are working in the dark" (Chan, Director-General, WHO)

One of the fundamental approaches to promoting human rights is to monitor the extent of the fulfilment and violation of human rights. Duty bearers are placed under tremendous pressure to meet their obligation to respect, protect and fulfil human rights due to the collection and dissemination of data about unfulfilled rights and about rights violations. The compliance of duty bearers with human rights standards can be strengthening by monitoring human rights. According to Theis[400], "adopting a human rights-based approach to measuring changes in lives of the marginalised or vulnerable group such as women, girls and the Almajiris in the North differs in several ways from conventional development targets. Monitoring 100 percent goals means to focus specifically on those people who are left out". To emphasise inequality and discrimination between women, girls, and the Almajiris in the North and their contemporaries in the South, human rights indicators should go beyond average national performance. The lack of monitoring and evaluation means that it becomes difficult to determine the level of human capital development changes or investment to address Nigeria's development challenges. Further, the lack of monitoring and evaluation hinders the

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[400] Theis, J. (2003), "Rights-Based Monitoring and Evaluation: A Discussion Paper on Save the Children"

disaggregation of data between North and South Nigeria to identify which "groups of people are being denied" their rights. The lack of monitoring and evaluation also hinders the ability to measure different dimensions related to the realisation of rights in a more practical way. This, in turn, acts as a challenge to the use of human rights-based approaches in addressing Nigeria's development challenges, particularly in the North. According to Adams[401], monitoring and evaluation offer:

> "a valuable learning opportunities that can be to strengthen stakeholder accountability. A human rights-based evaluation is not just a technical exercise in data collection and analysis. It is a dialogue and democratic process to learn from each other, to strengthen accountability and to change power relations between stakeholders".

Further, the lack of monitoring and evaluation as a challenge to the use of the human rights-based approach in Nigeria Development challenges hinders the ability to monitor the extent of the fulfilment and violation of human rights, particularly women, girls, and the Almajiris in the North in terms of human capital development. Previous progress reports on SDGs were prepared with a national focus but limited sub-national governments' involvement. Although the Federal government is becoming increasingly involved in terms of support for the report's preparation, other tiers of government have not demonstrated any significant interest. Development activities aimed at meeting the SDG targets are being pursued at all government levels. However, a rallying point for the documentation of necessary information for monitoring progress is still conspicuously absent[402]. It is therefore essential, according to Adams[403] that:

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[401] Adams, Jerry (2003), "Monitoring and Evaluation of rights based approaches" in ontrac No. 23, INTRAC, Oxford. Available at www.intrac.org.Accessed February 4 2020.
[402] Mbumega, A. (2012)," Issues of Development and Poverty Reduction in Nigeria" Destiny Ventures. Makurdi Nigeria
[403] Ibid

"The collection and dissemination of data about unfulfilled rights and about rights violations puts pressure on duty bearers to meet their obligations to respect, protect and fulfil human rights. Human rights monitoring can help strengthen the compliance duty bearers with human rights standards. Changes in the accountability of duty bearers can be made more concrete by measuring changes in policies, laws and resources allocations, and changes in attitudes, values and practices, although it should always be remembered than changes in laws and policies do not automatically translate into improvements in the lives of the marginalised, poor and exploited".

Striking a balance between economic and social dimensions of development, the SDGs seek to build and complete the "unfinished business of the MDGs "by ensuring the "realisation the rights" of all and achieving gender equality in all sectors. This, in turn, provides an opportunity to invest in human capital development and, by so doing, helps address Nigeria's development challenges. Civil society helps in monitoring because they are closely involved in negotiating sustainable development goals. According to Aho and Grinde[404]," civil society organisations can, in cooperation with governments, businesses and other actors can translate the SDGs to the national level ". They also argued that civil society organisation could "hold government and businesses (duty bearer) to account for their responsibility to achieve the SDG 3 and 4 the two major pillars of human capital development and human rights, while making the public (rights holders) at the same aware of the SDG and the rights to which they are entitled".

Finally, for Nigeria to address her development challenges, the government needs to invest in human capital development and adopt a human rights-based approach to achieve sustainable development goals or the 2030 development agenda. The next section is the conclusion that

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[404] Aho, E and Gride, J. (2017)," Shrinking Space for Civil Society-Challenges in Implementing the 2030 Agenda" Forum Syd, pp. 20-22

explores the various possibilities in addressing Nigeria's human capital development challenges and makes possible recommendations based on the relevance of human rights and investment in human capital development in the implementation of SDG 3 and 4.

CHAPTER SIX:

ADDRESSING HUMAN RIGHTS AND POOR HUMAN CAPITAL DEVELOPMENT IN NIGERIA

> "Human rights are not, as has sometimes been argued, a reward of development. Rather, they are critical to achieving it" (UNDP, 2000:3)[405]

> "Human rights in the 1990s, to a greater extent than ever before, set a norm that regulates the relationship between state and society" (Sano, 2000:741)[406]

So far, this thesis has critically analysed or examined the Human Rights-Based Approach to Development, its evolution, the key features and concepts assessed. The literature review and the theoretical perspective and identified a gap in knowledge. It further explored the interaction or relationship between Human Rights, human capital development, and Sustainable Development Goals (SDGs). The thesis also examined development in Nigeria context and the barriers and challenges to using a human rights-based approach in Nigeria. In this chapter, this thesis addresses Human Rights and poor Human Capital Development in Nigeria. Human rights have acquired global status and importance since the Universal Declaration of Human Rights in 1948 but have grown tremendously, both in content and conception. In Nigeria, human rights status is also without any historical antecedents based on the internationalisation of human rights that has been energised and strengthened by several developments. This chapter will examine the effect or impact of the slave trade on human rights and development from the Pre-colonial or slave trade era, Colonial and Post-Colonial Era. This thesis also argued that despite Nigeria being a signatory to major international human rights instruments, social, economic, and cultural rights and large-scale

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[405] See UNDP (2000) The Human Development Report: Human rights and human development, New York: UNDP and Oxford: Oxford University Press.

[406] See Sano, H.O. (2000)" Development and Human Rights: The Necessary, but Partial Integration of Human Rights and Development", Human Rights Quarterly, 22, 734-752.

human rights abuses still exist in terms of education and health, the two central pillars of human capital development in the North-South of the country.

Article 1 (3) charter of the United Nations[407] "Internationally and nationally, the need for the promotion and protection of human rights is now not only recognised as the foundation of freedom and justice but as an integral and essential element for the preservation of peace not only within the confines of particular states, but universally". In lights of the foregoing, the European[408] Convention on Human Rights "signed on the 4th of November 1950 and entered into force in September 1953 covers a wide variety of primary civil and political rights". The rights covered in the Convention itself include "the right to life (article 2), prohibition of torture and slavery (article 3 and 4), right to liberty and security of person (article 5), right to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law (article 6), prohibition of retroactive criminal legislation (article 7), right to respect for private and family life (article 8), freedom of thought, conscience and religion (article 9), freedom of expression (article 10). Human rights scholars and activists concerned that the evolving global order was not adequately protecting and fulfilling human rights since the late 1990's began to focus on global poverty. They also argued that human rights are central to both the ends and means of the development process. The passage of the

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[407] See Article 1 (3) Charter of the United Nations. See also The Preamble, Universal Declaration of Human Rights, 1948.
[408] See e.g. Jacobs and White: The European Convention on Human Rights (eds. C. Ovey and R.C.A. White), 4th edn, Oxford, 2006; D.J. Harris, M. O" Boyle and C. Warbick, Law of the European Convention on Human Rights, London, 1955; M.W.Janis, R.S. Kay and A. W. Bradley, European Human Rights Law: Text and Materials, 3rd edn, Oxford, 2008; S. Greer, The European Convention on Human Rights: A chievement, Problems and Prospects, Cambridge, 2006; G. Letsas, A Theory of Interpretation of the European Convention on Human Rights, Oxford, 2007; La Convention Europeenne des Droits de I" Homme (eds. P. Imbert and L. Pettiti), Paris, 1995; L.J. Clements, N. Mole and A. Simmons, European Human Rights: Taking a Case under the Convention, 2nd edn, London, 1999; The European System for the Protection of Human Rights (eds. R. St J. Macdonald, F. Matscher and H. Petzold), Dordrecht, 1993; A.H.Roberson and J.G. Merrillis, Human Rights in Europe, 4th edn, Manchster, 2001; P.VanDijk, G.J.H. Van Hoof, A. Van Rijn and L. Zwaak, Theory and Practice of the European Convention on Human Rights, 4th edn, Antrwerp, 2006; P.jVelu and R. Ergel, La Convention Europeenne des Droits de I" Homme, Brussels, 1990; G. Cohen Jonathan, La Convention Europeenne des Droits de „J Homme, Paris, 1989; E. Lambert, Les Effets des Arrets de la Cour European des Droits de I" Homme, Brussels, 1999, and K. Starmer, European Human Rights Law, London, 1999. See also L.G. Loucaides, Essays on the Developing Law of Human Rights, Dordrecht, 1995; J.G. Merrills, The Development of International Law by the European Court of Human Rights, 2nd edn, Manchester, 1993.

Convention to Eliminate All Forms of Discrimination against Women, and the Convention of the Rights of the Child aimed to put pressure on governments to stop human rights abuses. As an initiative, it attempts to combine the two fields of endeavour that has previously developed in parallel and interacted little[409]".

6.1. A Human Rights-Based Approach in Addressing Development Challenges in Nigeria

> "We have made huge strides in reducing child mortality, improving maternal health and fighting HIV/AIDS, malaria and other diseases. Since 1990, HIV/AIDS infection fell by 30 percent between 2000 and 2013, over 6.2 million lives were saves from malaria. Despite this incredible progress, more than 6 million children still die before their fifth birthday every year, 16,000 children die each day from preventable diseases such as measles and tuberculosis. Every day hundreds of women die during pregnancy or from child-birth related complications. In many rural areas, only 56 percent of births are attended by skilled professionals. AIDS is now the leading cause of death among teenagers in Nigeria and other Sub-Saharan Africa, a region still severally devastated by the HIV epidemic. This death can be avoided through prevention and treatment, education, immunisation campaigns, and sexual and reproductive healthcare. The Sustainable Development Goals, make a bold commitment to end the epidemics of AIDS, tuberculosis, malaria and other communicable diseases by 2030. This aim is to achieve universal health coverage, and provide access to safe and affordable medicine and vaccines for all supporting research and development for vaccines is an essential part of this process as well" (UNDP[410], Nigeria)

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[409] Ibid
[410] United Nations Development Programmes (UNDP, 2015). Available at www.ng.undp/control/nigeria/en/home/sustainable-development-goals/goals-3-good-health-and-well-being.html Accessed 5. September 2019.

"Inequality increases and persists because some groups have more influence over the policy making process and other groups can't make the system response to their needs. This leads to policy distortions and undermines the democratic process "(Lopez-Calva, UNDP Regional Director)

Based on the above quote, a Human Right-Based Approach to development can be applied to achieve development outcomes by examining the benefit of the approach in terms of both moral consensus and legal obligation. It sets the achievement of human rights as an objective of development. The approach acts as a scaffolding of development policy and invokes the international apparatus of human rights accountability to aid development outcomes in Nigeria. The approach entails an array of key elements such as non-discrimination, empowerment, linkage to rights, attention to vulnerable groups and accountability. According to the UNDP[411] (2006) Report on development cooperation, application of HRBA "involves applying international human rights values, principles, standards and goals in all stages of policy, programme and project formulation such as situational assessment and analysis which takes the national context seriously and is sensitive to national ownership as well as inclusivity. It also examines resource allocation in plans and programmes, choice of developmental interventions, strategies and projects, result-based programme monitoring and evaluation and institutional and capacity development of both rights-holders and duty-bearers". As stated in chapter two of this thesis, a human rights-based approach in their consideration is comprehensive in terms of the full range of indivisible, interrelated, and interdependent rights. In other words, according to Hausermann[412], it involves both Civil and Political Rights such as:

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[411] UNDP (2006)," Applying A Human Right Based Approach to Development Cooperation and Programming: A UNDP Capacity Development Resources: Capacity Development Group Bureau for Development Policy". USA

[412] Hausermann. J. (1998)," A Human Rights-Based Approach to Development" Rights and Humanity. London: Department for International Development of the UK Government.

- The right to life

- The right to liberty and security of a person

- Freedom of movement

- Equality before the law

- Independence of the judiciary

- The right to privacy

- Freedom of thought, conscience, and religion

- Freedom of expression

- Freedom of association

- The right to take part in the conduct of public affairs

- The right to vote and to be elected

- The right to freely determine political status.

Economic, Social and Cultural Rights such as:

- The right to education

- The right to the highest attainable standard of physical and mental health

- The right to an adequate standard of living, including adequate food, housing, and clothing

- The right to participate in cultural life

- The right to freely pursue economic, social and cultural development

In the light of the foregoing, covering a whole host of rights relating to health, education, housing, water and sanitation, administration of justice, and political participation. For Nigeria to address her development challenges, a human rights-based approach must be tailored towards addressing discrimination, equality, vulnerable groups, particularly women, girls, minorities, indigenous peoples, and the internally displaced person. In a bid to achieve

development outcomes in Nigeria, applying the human rights-based approach requires a high degree of participation that involves communities, indigenous people's minorities, civil society, and women and girls. The approach must ensure that development policies, decisions, and initiatives must not reinforce the existing North and South divide, power imbalance between men and women, workers, and employers whilst seeking to empower local participation. Further, in the African Charter on Human and People's Rights, the content of rights within Nigeria and Africa is defined and recognising the right to development, which accords a high priority to economic, social, and cultural rights. The New Partnership for Africa‟s Development (NEPAD) according to Ayeni[413], is an example of neo-liberal organisations and is a somewhat continental initiative introduced to deal with the crisis of government in Africa, which, over the years, has accentuated poverty (SDG1) in virtually every country within the continent. It was formally adopted by African leaders in Durban, South Africa, in October 2001 as the cornerstone for Africa‟s development in the 21st century. It is a vision and a plan to address development challenges such as poverty, corruption, incessant conflict, religious crisis, violent extremism, and infrastructure, the lack of technological innovation, underdevelopment, and acute income disparity and ensure economic revival, accelerated growth, and sustainable development. According to Dogonyaro[414], NEPAD is a holistic, integrated sustainable development initiative for Africa's political, economic, and social revival involving a constructive partnership within Africa and between Africa and the developed world. It is evident that popular participation must be encouraged for NEPAD to continue to be a human rights-based approach to development to address Nigeria's development challenges, particularly human development. The next section of this thesis will examine a human rights-based approach to health.

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[413]Ayeni. J. (2008), Reforming Public Service in Nigeria: A collective Responsibility, ABUJA: SSC Publishers.
[414]Dogonyaro. S. (2003)," The challenges and Prospects of the New Partnership for Africa‟s Development (NEPAD)" A Paper Presented at the National Institute for Policy and Strategic Studies (NIPPS), Kuru, Nigeria, on Thurday, 10th April.

6.1.1. A Human Rights Based Approach to Health in Nigeria

> "Every individual shall have the right to enjoy the best attainable state of physical and mental health. States parties to the present Charter shall take the necessary measures to protect the health of their people and to ensure that they receive medical attention when they are sick" Article 16[415](1)(2)

> "Health is Wealth goes the popular saying and therefore in every country, the health sector is critical to social and economic development with ample evidence linking productivity to quality of health care. In Nigeria, the vision of becoming one of the leading 20 economies of the world by the year 2020 is closely tied to the development of its human capital through the health sector" (Health Sector Development Team[416], 2009)

By analysing and addressing the inequalities, discriminatory practices, and unjust power relations, which are often at the heart of development challenges, human right-based aims to support better and more sustainable development outcomes in North and South Nigeria. Development efforts are anchored in a system of rights under a human rights-based approach and corresponding state obligations established by international law. A guiding framework for development plans, policies, and processes is provided by both the Civil and Political Rights and Social, Economic and Cultural Rights. Capacity development in Nigeria can be achieved by adopting a human rights-based approach to development. In a bid to answer the second research question, this thesis will first examine the right to health and then the key elements of a human rights-based approach to health in Nigeria.

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[415] See The African Charter on Human and Peoples Rights adopted in Nairobi June 27, 1981 and it came into force in October 21, 1986.
[416] Health Sector Development Team (2009)," The National Strategic Health Development Plan Framework (2009-2015)

6.1.2. The Right to Health in Nigeria

> "The right to health is an inclusive right extending not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information" (General Comment No. 14 Committee on ESCR)[417]

In light of article 16 of the African Charter on Human and Peoples Rights stated above, it is evident that without distinction of race, religion, and political belief, economic or social condition, the enjoyment of the highest attainable standard of physical and mental health is one of the fundamental rights of every human being[418]. In a wide array of formulations, this recognition has been reiterated over time in international, regional, and national human rights instruments- including article 25 of the Universal Declaration of Human Rights[419] and article 12 of the International Covenant on Economic, Social and Cultural Rights[420].A human rights-based approach is useful in addressing development challenges for two main reasons or rationale these are (1) the intrinsic rationale that involves acknowledging morally or legally that adopting a human rights-based approach to development is the right thing to do. (2) the instrumental rationale acknowledged that the use of a human rights-based approach leads to better and more sustainable human development outcomes. In international human rights law, the right to health is widely recognised and mostly used; this involves the comprehensive articulation of the right to health as set out in the International Covenant on Economic, Social

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[417] See the General Comment No.14 of the Committee on Economic, Social and Cultural Rights.
[418] See World Health Organisation (WHO,2006),"Constitution of the World Health Organisation" Available at www.who.int/governance/eb/who_constitution_en.pdf. Accessed 21 September 2019.
[419] See United Nations Universal Declaration of Human Rights. Available at www.un.org/en/universal-declaration-human-rights.Accessed 20 September 2019.
[420] See Office of the High Commissioner on Human Rights, International Covenant on Economic, Social and Cultural Rights. Available at www.ohch.org/EN/professionalinterest/pages/CESCR.aspx.Accessed 21 September 2019.

and Cultural Rights (ICESCR). Article 12 of the ICESCR states that the States parties to the present covenant must recognise everyone's right to the enjoyment of the highest attainable standard of physical and mental health. The chart below illustrates the right to health as required expressly in international, regional human rights instruments and the national constitution.

Right to Health Provision	Human Rights Instruments
Article 25	Universal Declaration of Human Rights
Article 12	International Covenant on Economic and Social Cultural Rights (ICESCR)
Article 5 (d) (iv)	International Convention on the Elimination of all Forms of Racial Discrimination
Article 11.1 (f) and 12	Convention on the Elimination of All Forms of Discrimination Against Women
Article 24	Convention on the Right of the Child
Article 25	Convention on the Rights of Person with Disabilities
Article 16	African Charter on Human and Peoples Rights
Article 11	European Social Charter
Article Xl	American Declaration of the Rights and Duties of Man
Article 10	Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights

The United Nations (UN) body authorised to monitor compliance with the International Covenant on Economic, Social and Cultural Rights (ICESCR) is the committee on Economic, Social and Cultural Rights (CESCR) which issued a general comment on the right to health known as General Comment 14[421]. According to the general comments, states Parties are expected to implement their treaty obligations as stated in the authoritative guidance. However, States parties are not legally blind or obligated to comply with the general comments 14. In Nigeria, Civil and Political Rights are guaranteed in the Constitution, whilst the right to Economic, Social and Cultural Rights such as the right to health care are not legally binding on the government. As stated in chapter one of this thesis, Chapter 2 of the 1999 [422]Constitution and other constitutions prior to it classified the right to health as one of the "Fundamental Objectives and Directive Principles of State Policy"[423] and this makes it non-justifiable. The lack of significant resources was proposed as the rationale for characterising the right to health as a directive principle. Section 6(6)(c) of the 1999 constitution further emasculates the right to health care concerning matters listed in chapter 2 by precluding the court's jurisdiction. However, the positive impact of the African Charter on Human and Peoples Rights "Ratification and Enforcement Act" on the "Directive Principles" with particular reference to health care introduced new possibilities for amending the right to the issue of justiciability in Nigeria court.

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[421] See Committee of Economic, Social and Cultural Rights (CESCR). General comment no.14, UN. Doc E/C.12/2004/4.Available at www2.ohcr.org/English/bodies/cescr/comment.htm.
[422] See the Constitution of the Federal Republic of Nigeria "1999, Federal Government Press, chapter 2"
[423] Directive Principle refers to socio-economic interest and is often used in place of chapter 2 of the 1999 constitution.

6.2. Key Elements of the Right to Health in Nigeria

Further, the right to the highest attainable standard of physical and mental health is also known as the right to health. The right to be healthy or the right to health care is not regarded as the right to health. According to the International Covenant on Economic, Social and Cultural Rights (CESCR) which states that "the right to health must be understood as a right to the enjoyment of a variety of facilities, goods, services and conditions necessary for the realisation of the highest attainable standard of health". The right to health may be classified into two major spectra, namely health care and social or underlying determinant of health[424]. The social or underlying determinant as stated in the General Comment 14 of the International Covenant on Economic, Social and Cultural Rights (CESCR) states that "right to health embraces a wide range of socio-economic factors that promote conditions in which people lead a healthy life, and extends to the underlying determinants of health". The underlying determinant of health includes but not limited to "housing, adequate supply of safe food and nutrition, access to safe and potable water and adequate sanitation, safe and healthy. All aspects of the right to health include a list of essential elements that applies to it, including the underlying determinants. The prevailing condition in Nigeria determines the precise application of the right to health. This key element includes the following:

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[424] See General Comment No 14 on the Rights to the highest attainable standard of health.

6.2.1 Availability

To ensure the availability of the rights to health in Nigeria, the government needs to provide a functioning and good public health and health care facilities in North and South and ensure that these facilities are sufficient, including (1) good and affordable drinking water and disposable sanitation facilities. (2) Hospitals, clinics, and other health-related facilities (3) medical personal that are adequately trained in various health-related fields (4) the availability of essential drugs for the treatment of various identified diseases. According to Penchansky and Thomas[425] the number of health resources available for use by those in need determines healthcare delivery availability. They argued that availability solely depends on the government and other relevant stakeholders who decide the health sector to ensure availability. The population from time to time vis-à-vis the knowledge of the number of facilities will help in the effective planning for equitable health service delivery in Nigeria to address the country's human capital development/investment challenges, particularly in the North.

6.2.2. Accessibility

Makita-Ikouaya et al states that "access significantly impacts the utilisation of all forms of healthcare services and differential health outcomes of users. Access to health care varies globally as a result of the income distribution. According to Peter et al[426] developing countries of the world, particularly African countries, lack better access to health care when compared to developed countries of the world. According to Shah,[427] due to political instability and concerted effort on the government and relevant stakeholders in the health sector, healthcare systems in Africa are fragmented, lacking resources, information, personnel, continuity, and

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[425] Penchansky.R. and Thomas. J.W. (1981)"The concepts of access: definition and relationship to consumer satisfaction", Medicare 19(2) pp.127-140

[426] Peter. D.H. et al., (2008)" Poverty and Access to health care in developing countries" Ann N.Y. AcadSci, 1136(1). Pp. 161-171. Doi 10.1196/annsa.1425.011

[427] Shah. A. (2011)" Health Care Around the World" Global Issues.

sustainability. Many primary health care facilities in Africa lack well-trained manpower and decent quality, and as a result of these challenges, countries in Africa continue to experience the burden of diseases, maternal mortality, and infant mortality, particularly childbirth-related issues of which 800 women die on a daily basis of which 99 percent are from third world countries according to the World Health Organisation (WHO, 2017)[428]. In Nigeria, the burden of bearers of disease morbidity and mortalities is among the world's greatest. Human Immunodeficiency Virus (HIV), Malaria, Tuberculosis, and malnutrition remained an active source of death in Nigeria whilst these have reduced in developed countries of the world. There are four (4) dimensions of access as an essential element of the right to health. These are (1) Non-discrimination which allows for free accessibility of health care facilities in North and South Nigeria. Goods and services that is accessible to all, particularly marginalised and vulnerable group in North. Language, sex, religion, race, colour, political, birth, physical, health status including HIV/AIDS, sexual orientation, and civil, political, social or other status should not be used as bases for discrimination in accessing the right to health in Nigeria. (2) Physical accessibility involves providing health care facilities and the underlying determinant of health within the geographical area that is safe for all sections of the population, particularly in the North where there are no good health care facilities compared to South Nigeria. (3) Economic accessibility (affordability) ensures that healthcare facilities are affordable for all in North and South Nigeria. It must ensure equality in providing health care services and facilities, particularly the underlying determinants of health that must be affordable and not create a burden for the poor disproportionately. (4) Information accessibility ensures that information is accessible and includes the rights to seek, receive and impart knowledge and ideas on health issues, whilst to ensure that the right of the person is not compromised.

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[428] See World Health Organisation (2017) Children: reducing mortality. Available at www.who.int/mediacentre/factsheets/fs178/en Accessed 01October 2019.

6.2.3. Acceptability

According to Penchansky and Thomas[429], faith, social status, quality, and other health services attributes determine the client's perception of acceptability. The provision of primary health services or facilities that are culturally acceptable came into force as a result of the declaration of AIma-Ata according to Peter et al[430]. One of the major causes of low utilisation of government-owned health care facilities in Nigeria is the lack of acceptability, according Akin and Hutchinson[431]. To be acceptable, health care facilities should be respectful of medical ethics and culturally appropriate by ensuring gender sensitivity and life cycle requirements in North and South Nigeria to address her human capital development challenges.

6.2.4. Quality

As the fourth key essential element of the right to health, quality ensures the availability of good health care facilities that scientifically and medically appropriate and of good quality in North and South Nigeria. The provision of safe and potable drinking water and adequate sanitation, skilled medical personnel, scientifically approved drugs, and hospital equipment are part of the quality element of the right to health. The high morbidity and mortality in Nigeria are attributed to the shortage of safe drinking water and proper sanitation facilities. In the North, the lack of quality health care is of serious concern and is responsible for the high mortality rate compared to the South. The lack of hospitals and qualified persons results from poor human capital development in the North.

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[429]Penchansky.R. and Thomas. J.W. (1981)," The Concept of Access: Definition and relationship to consumer satisfaction.
[430] Peter et al (2008) note 348
[431]Akin.J.S. and Hutchinson.P. (1999)" Healthcare facility choice and the phenomenon of bypassing" Health Policy and Planning.14(2) pp.135-151.

6.3. Key element of a Human Rights-Based Approach to Health

Realising the right to health and other health-related human rights is achievable by adopting a human rights-based approach to address Nigeria's human capital development challenges. Human rights principles and standards will help make health policy that aims to develop duty-bearers' capacity to meet their obligations and empower rights-holders to claim their health rights effectively. At the core of a Human Rights-Based Approach (HRBA) is the elimination of all forms of discrimination. Achieving gender equality is a crucial strategy in gender mainstreaming and eliminating all forms of discrimination based on sex. Goal, process and outcome are the core aspects of the Human Rights-Based Approach building on the United Nations (UN) common understanding. In terms of goal, in defining the precise elements of health objective, human rights standards and principles help provide a guideline. To further advance the realisation of the right to health and other health-related human rights as laid down in national and international human rights legislation, adopting a human rights-based approach will help achieve all health policies and strategies. Nigeria is a party to many international and regional human rights treaties that recognize the right to health, as discussed above in this chapter. The International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Rights of the Child (CRC), the Convention on the Elimination of all Forms of Discrimination (CERD), the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW). The International Covenant on Civil and Political Rights, known as the first generation right (ICCPR), and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment are other two health-related treaties Nigeria is a party to. In terms of process, a human rights-based approach pays attention to the processes and not just the outcomes. Participation, equality and non-discrimination, and accountability are human rights standards and principles that need to be integrated into all health processes such as "assessment and analysis, priority setting,

planning and design, implementation, and monitoring and evaluation".[432] The next section of this chapter examines the citizen's participation and inclusion in the decision-making process to address Nigeria's development challenges.

6.3.1. Participation and Inclusion of the Citizen in the Decision-Making Process

Bringing healthcare closer to the citizen by involving local communities in its implementation is a key strategy for realising the right to health by adopting a human rights-based approach. A human rights-based approach ensures that the citizen is entitled to "active, free and meaningful participation" in the decision as it affects the citizen, such as the "design, implementation and monitoring" of health interventions to address Nigeria's human capital development challenges. According to UNDP[433], participation and inclusion is "an essential principle of the international human rights framework that ensure that every person and all peoples are entitled to participate in, contribute to, and enjoy civil, economic, social, cultural and political development in which all human rights and fundamental freedoms can be can be fully realised". In general, it involves the exercise of power and access to decision-making. According to Uvin[434], participation is not:

> "limited to the narrow confines of project implementation or even project design and selection; it is also more broadly a commit by aid agencies to give much more priority to promoting local dialogues, to stimulating local knowledge generation and research, to finding ways of making people's voices heard by those in power both out of respect for the dignity of people and because they are the ones who have to live with the consequences of being wrong".

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[432] See World Health Organisation (WHO) on A Human Right-Based Approach to Health. Available at www.who.int/hhr/news/hrba_to_health2.pdf.Accessed 2 October 2019.
[433] See UNDP Report on A Human Rights-Based Approach to Development Programming in UNDP-Adding the Missing Link.
[434] Uvin. P. (2004)" Human Rights and Development" Kumarian Press, Inc Blue Avenue: USA.

Participation ensures increases to the needs of the people they are intended to benefit from and increases ownership based on policies and programmes tailored to their needs. A critical component of participatory processes is information sharing. If relevant information is available on time and can be easily accessible, participation can be regarded as meaningful and accessible in different languages, religions, and cultural backgrounds. For the citizen to maximise their potential, the principles of participation and inclusion must be encouraged. This, in turn, provides opportunity and a supportive environment that enables citizens to develop their full potentials and creativity. This, by adopting a human rights-based approach in a bid to address Nigeria's human capital development/investment challenges. The next section looks at equality and non-discrimination.

6.3.2. Equality and non-discrimination

Discrimination in laws and policies are some of the defining challenges of our time, which led to the issue of the rising level of inequalities in North and South Nigeria, putting sustainable development at risk, threatening economic and political stability, and violating human rights as discussed in chapter three of this thesis. One of the primary principles of human rights is the principle of equality. With reference to international law, the principle of non-discrimination prohibits "discrimination in the enjoyment of human rights on any ground, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status[435]" and practices are required to be address by state under equality and non-discrimination. For instance, in the distribution and provision of health care resources and facilities in North and South Nigeria. According to UNDP[436], "the principle of non-discrimination applies to all state policies and practise, including those

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[435] See UNDP Report on A human rights-based approach to development programming in UNDP-Adding the missing link.
[436] Ibid

concerning healthcare, education, and access to services". According to Guterres, the Secretary-General of the United Nations

> "Indeed, the imperative to promote more equitable development permeates all 17 goals of the 2030 Agenda, including through promoting universal, equitable and inclusive access to health, education, water, services, justice, opportunities and outcomes across many of the targets. This is further underscore by a cross-cutting commitment to the disaggregation of data, which will help to ensure that no one is being left behind. The 2030 Agenda gives special attention to the poorest, most vulnerable and marginalised, including women and girls, all children, youth, persons with disabilities, people living with HIV/AIDS, older persons, indigenous peoples, refugees, internally dis-placed people, migrants, minorities, stateless people, and people facing discrimination"[437]

Against this background, the whole Agenda is underpinned by a commitment to "universal respect for equality and non-discrimination and to respect, protect and promote human rights… without distinction of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, disability or other status[438]". In a bid to identify the most vulnerable groups and diverse needs, a functioning national health information systems and availability of disaggregated data are essential in North and South Nigeria. The next sections of this chapter examine accountability for the right to health.

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[437] See Guterres Antonio the Secretary-General chair of the United Nations System Chief Executives Board for Coordination of the United Nations statement. Leaving No, One Behind Equality and Non-Discrimination at the Heart of Sustainable Development.
[438] Ibid

6.3.3. Accountability for the right to health

According to UNDP[439], accountability involves a process whereby states "have the primary responsibility to create the enabling environment in which all people may enjoy all human rights, and have the obligation to ensure that respect for human rights norms and principles is integrated into all levels of governance and policy-making" In other words, securing an enabling environment for development requires the principle of accountability. Accountability from a human rights-based approach provides value-added compared to traditional development approaches. In terms of the decision-making process, actions, or omissions, Nigeria as a nation-state must be transparent and put a redress mechanism in place to address human capital development/investment challenges. Economic and social development risks collapse without an independent and honest judiciary and a sound legal framework. Also, state parties in relation to the International Covenant on Economic, Social, and Cultural Rights (ICESCR) are to ensure that the rights recognised by the covenant are fulfilled. These are the central obligation as stated by the UN Committee on Economic, Social and Cultural Rights in General Comment 9 on the domestic application of the covenant[440]. In Nigeria, weak accountability presents a significant barrier to addressing human capital investment /development challenges. The next section of this chapter will examine a human rights-based approach to education to answer the second research question.

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[439] See UNDP Report on A Human Rights-Based Approach to Development Programming in UNDP-Addimng the Missing Link. Available at www.undp org. Accessed 5 October 2019.
[440] See the International Covenant on Economic, Social and Cultural Rights (ICESCR) the Domestic Application of the Covenant. UN Doc.E/C.12/1998/24.1998 General Comment No. 9. Para. 1.

6.4. A Human Rights-Based Approach to Education in Nigeria

"The 2030 Agenda for Sustainable Development sets an ambitious, universal standard for the world: sustainable development for all. And this means ensuring that development leaves no one behind. To achieve this, development thinking must undergo a transformational shift, going beyond global and national averages to address inequalities within countries and focus on those most at risk of being left behind" (OECD, 2018[441])

"Education is not a static commodity to be considered in isolation from its greater context; it is an on-going process and holds its own inherent value as a human right. Not only do people have the right to receive quality education now, they also have the right to be equipped with the skills and knowledge that will ensure long-term recognition of and respect for all human rights. As the Committee on Economic, Social and Cultural Rights observes in the opening lines of its General Comment No,13,....education is the primary vehicle by which economically and socially marginalised adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities" (Munoz, UN 2007[442])

"The World Bank"s Human Capital Project (HCP) has highlighted that a key factor in this inadequate and uneven progress is that many countries are failing to develop their greatest resources: their people. If millions are not to be left behind, urgent action is needed to change the level, equity and efficiency of investment in human capital, particularly in education and health-two sectors that are

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[441] See OECD- Organisation for Economic Co-operation and Development (2018) Development cooperation report 2018: joining forces to leave no one behind. Paris: OECD Publishing.
[442] Munoz Vernor United Nations Special Rapporteur on the Right to Education foreword in A Human Rights-Based Approach to Education for All: UNESCO

critical to long-term development and tackling inequality"
(Greenhill et al., 2015[443])

In light of the above quotes, it is evident that various development approaches adopted in the past such capability approach, needs-based approach to education, to mention a few, have failed to achieve education for all goals. However, although not without tensions and challenges, a human rights-based approach will aid in addressing Nigeria's poor Human Capital investment/development because it is inclusive and provides a common language for partnership. To ensure every child and individual has a quality education that respects and promotes their right to dignity and optimum development is the goal of a human rights-based approach to education. However, achieving this goal has become more complex. The impact of education in addressing poor human capital development in Nigeria cannot be underscored. In other words, education provides an opportunity for individuals to translate their knowledge to unimaginable growth, which aids in addressing poor human capital development. According to Tomasevski, "There are a large number of human rights problems, which cannot be solved unless the right to education is addressed as the key to unlock other human rights. Education operates as multiplier, enhancing the enjoyment of all individuals" rights, freedoms where the right to education is effectively guaranteed, while depriving people of the enjoyment of many rights and freedoms where the right to education is denied or violated" The right to education is an important tool in improving the quality of life and not just an end to itself. Education is the key to addressing the issue of poor human capital development challenges in a bid to implement the sustainable development goals in Nigeria. The next section will further examine the right to education and its legal framework to further answer the second research question.

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[443] Greenhill, R. and Desai, H. (2017)" Aid allocation within countries does it go to areas left behind?" ODI Briefing Note.London; Overseas Development Institute.

6.4.1. The Right to Education and its Legal Framework

The role of education in all societies and throughout human history has been vital, both as a means for the individual and society to develop and as an end in itself. The right to education, according to the United Nations Committee on Economic, Social and Cultural Rights, otherwise known as (ComESCR) "epitomises the indivisibility and interdependence of all human rights" In other words, the right to education is both a civil and political right and a social cultural right[444].The right to education as a universal and fundamental right has long been recognised in various "global or international treaties, regional and national legal instruments". In a bid to achieve education targets, the world leaders adopted two initiatives namely, the Millennium Development Goals (MDGs) in 2000, which was later replaced with the Sustainable Development Goals (SDGs) in 2015 and the World Declaration on Education for all in 1990 and came into force in 2000 (EFA[445]). The SDGs and Human rights are "interdependent and mutually reinforcing commitments" towards achieving development. EFA[446] in a similar vein aimed to "provide quality basic education for all children, youth and adults. EFA main objective by the year 2015 was to reduce the level of illiteracy and poverty, as well as achieving universal education. It provides useful information in terms of gender equality, if we are to achieve equity in education in a bid to address human capital development challenges. The declaration is also important because it ensures access to improve the quality of education for girls and women" According to Diala[447] "such equity entails putting in place a right based empowerment framework that will target the most vulnerable, and transfer power hierarchies in learning spaces, communities and policy structures" In light of the foregoing, this thesis will now examine the right to education in the

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[444] See" ComESCR General Comment 11, UN Doc E/C.12/1999/4 (1999) para 2"
[445] See the Report on "World Declaration on Education for all" Available at www.unesdoc.unesco.org/images/0012/001275/127583e.pdf. Accessed 13 October 2019.
[446] ibid
[447] Daila, C.B. (2014)" Towards ensuring fundamental education right in Nigeria: International Journal of Human Rights and Constitutional Studies: Vol.2, No 1.

international or global, regional, and national framework and how it aids in the implementation of the sustainable development goals in Nigeria.

6.4.2. The Rights to Education in Global or International Treaties

The right to education in global or international treaties has been affirmed in numerous global human rights treaties such as "United Nations Educational, Scientific and Cultural Organisation (UNESCO), Convention against Discrimination in Education (1960), the International Covenant on Economic, Social and Cultural Rights (ICESCR)in (1966), the Convention on the Elimination of All Forms of Discrimination against Women (1981) and the Convention of the Rights of the Child (CRC)[448]" The above stated treaties according to UNESCO establish "an entitlement to free, compulsory primary education; an obligation to develop secondary education supported by measures to render it accessible to all children, as well as equitable access to higher education; and a responsibility to provide basic education for individuals who have not completed primary education[449]".Articles 13,26, 28,29, and 30 of the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the Convention on the Right of the Child (CRC) respectively states that "Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms[450]" In addition, with respect to the right of education, Article28 (a) to (e) specifically formulates the core minimum that State Parties should realise or provide. These include "free access to education, compulsory primary education for all, the development of different forms of secondary

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[448] See UNESDOC (2007) on A Human Rights-Based Approach to Education for All. Available at www.unesdoc.unesco.org Accessed 15 October 2019.
[449] Ibid
[450]Olumade. S.A. (2012)" Human Rights and Quality Education in Nigeria Primary Schools: Academic Research International

education and vocational guidance, accessibility of higher education on the basis of capacity and encouragement of regular attendance at schools and reduction of drop-outs[451]" The next section of this chapter will evaluate the right to education at the regional level.

6.4.3. The Right to Education at Regional Level

The trend to elaborate regional standards continued with the adoption of the American Convention on Human and Peoples Rights in 1967 due to the adoption of the European Convention on Human Rights in 1950, and the African Charter on Human and Peoples Rights was subsequently established in 1981. Various other regional treaties have been elaborated to make it more efficient to render protection for both the Civil and Political Rights and Economic, Social and Cultural Rights. According to Jawara[452], "the adoption of the African Charter on Human and Peoples" Rights in 1981 was the beginning of a new era in the field of human rights in Africa". By protecting and promoting human rights in specific areas of the world, the international human rights framework is complemented by regional human rights instruments. The African Charter on Human and Peoples" Rights is a key binding African regional instrument because it recognises the right to education and states that every individual shall have the right to education[453]. In addition, According to Banda[454], "the African Protocol and the African Charter on Human and Peoples" Rights have had some normative gains in the African region". In the next section of this chapter, this thesis examines the right to education, specifically in the Nigeria legal framework.

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[451] ibid
[452] See Alhaji Sir Dawada Kairaba Jawaras, Statement at the 33rd session of the UN General Assembly, 22 September 1978, quoted in Touray, The Gambia and the World-A History of the Foreign Policy of Africa"s Smallest State 1965-1995 (Institut fur Afrika-Kunde, 2000)161.
[453] See Article 17.1 of the ACHPR 81.
[454]Banda. F. (2009),"Protocol to the African Chater on the Rights of Women in Africa in Malcolm Evans and Rachel Murray (ed) The African Charter on Human and Peoples Rights: The System in Practices 1986-2006, 2nd ed (Cambridge)".

6.4.4. The Right to Education in Nigeria Legal Framework

The right to education as stated in Article 25 (1)of the 1999 Constitution of the Federal Republic of Nigeria, says that "All persons shall have the right to equal educational opportunities and facilities and with a view to achieving the full realisation of that right (a) basic education shall be free, compulsory and available to all (b)secondary education in its different forms….shall be made generally available and accessible to all by every appropriate means, and in particular, by the progressive introduction of free education (c) higher education shall be made equally accessible to all, on the basis of capacity by every appropriate means, and in particular by the progressive introduction of free education[455]" In addition, as discussed in chapter one of this thesis on International Covenant on, economic Social and Cultural Rights contained under the Fundamental Objectives and Directives Principles of State Policy in Chapter 2 of the 1999 Constitution are non-justiciable by the virtue of section 6(6)(c) of the said document which states that "The judicial powers vested in accordance with the foregoing provisions of this section shall not except as otherwise provided by this Constitution, extend to and issue or question as to whether any act of omission by any authority or person or as to whether any law or any judicial decision is in conformity with the Fundamental Objectives and Directives Principles of States Policy set out in Chapter 2 of this Constitution". However, based on the (Ratification and Enforcement) Act of African Charter on Human and Peoples Right discussed in Chapter three of this thesis states that "this Act enable effect to be given in the Federal Republic of Nigeria to the African Charter on Human and Peoples" Rights made in Banjul on the 19th day of January, 1981 and for purpose connected therewith. Where a Charter entitled the African Charter on Human and Peoples" Rights has been duly adopted by divers States in African, and Nigeria is desirous of adhering to the said Charter: And whereas it is necessary and expedient to make

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[455] See the Constitution of the Federal Republic 1999 page 27.

legislative provision for the enforcement in Nigeria of the said Charter by way of an Act of the National Assembly: As from the commencement of this Act, the provision of the African Charter on Human and Peoples" Rights which are set out in the schedule to this Act, subject as there under provided have the force of law in Nigeria and shall be given full recognition and be applied by all authorities and persons exercising legislative, executive or judicial powers in Nigeria[456]".

In light of the above, Nigeria's legal framework's right to education is enforceable or justiciable in Nigeria court against the government who is the duty bearer as recently being held as the court declares free, compulsory basic education enforceable right. In a human rights-based approach, the issue of justiciability of the right to education is an important tool. According to a landmark judgement passed on Wednesday by Justice Tsoho, who argued that:

> "By the combined effect of section 18(3)(a) of the 1999 Constitution and section 2(1) of the Compulsory, Free Universal Basic Education Act, 2004, the right to free and compulsory primary education and free junior secondary education for all qualified Nigerian citizens are enforceable rights in Nigeria"[457]

Public policies guided by human rights principles and norms designed to ensure human rights' enjoyment are required for an effective national human rights promotion and protection systems. As it was highlighted in the Human Development Report (2000), the success of the application of human rights-based development strategies "will primarily rest on the recognition and respect for the

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[456] See African Charter on Human and Peoples Rights-Nigeria Law. Available at www.nigeria-law.org Accessed 17 October 2019.
[457] See Punch 2017 Newspaper . Available at www.punchng.com/court-declares-free-compulsory-basic-education-an-enforceable-right-in-Nigeria Accessed 17 October 2019.

primacy of universal human rights in the State norms, institutions, legal frameworks and enabling economic, political and policy environment"[458].

The next section will evaluate the right of access to education in Nigeria.

6.4.5. The Right of Access to Education in Nigeria

Every citizen has a right of access to education in Nigeria, as enshrined in the Constitution of the Federal Republic of Nigeria (1999). Understanding the poor human capital investment/development in Nigeria, access to education has become a thoughtful issue of discourse. With respect to the nation"s educational objectives, the 1999 Constitution provides that "Government shall through its policy ensure that equal and adequate educational opportunities to all citizens". According to Falola and Heaton[459], the educational gap between the North and South and urban and rural dwellers is dated back to the colonial era or period in Nigeria. The North had developed very differently from the South. However, the North still lagged far behind the South in terms of a European-educated population. According to the UNHRBA Portal[460], a human rights-based approach "provide opportunity for priority setting and programming which can be adopted to identify Nigeria development challenges and proffers solutions that may help support the capacity of both the duty bearer and rights holder". According to UNICEF[461], "10.5 million children are currently out of school in Nigeria. This is the highest population of out of school children in the world. Primary school enrolment has increased in recent years, but net attendance is only about 70 percent and 60 percent of the 10.5 million out of school children are in the North". The right of access to education comprises of "three key elements namely: the provision of education throughout all

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[458] See Armenia (2000),"Human rights and human development" Available at www.undp.am/publications/nhdr00 Accessed March 2020.

[459] Falola.T. and Heaton. M. (2014) a History of Nigeria: Cambridge University Press: United Kingdom

[460] See UNHRBA PORTAL (2017)" FAQ on HRBA. Accessed 17 October 2019.

[461] See UNICEF Statistic on Education in Nigeria Infographics the future of the Educational System

stages of childhood and beyond, consistent with the Education for All goals; the provision of sufficient, accessible school places or learning opportunities; and equality of opportunity"[462].

Further, to address Nigeria's development challenges, there is a need to make education available to the citizens in North and South and in rural or urban areas. According to Enaohowo, who states that:

> "Access to education provides an enabling environment that is geared towards creating opportunity for people to delve into the understanding of the value involved in being educated. Expanding access to education is an integral part of human society that requires government being fully involved in the provision and de-centralisation of educational institutions such as tertiary institution, secondary and primary education within state and local areas of the country thus, access to education reveals the Universal Declaration of Human Rights, which affirms that everyone has a right to education. Providing access to education guarantees everyone entitle to be educated in the society. This implies that the rights or opportunity and process of making education available within the reach of every citizen of a nation is sure to be provided"[463].

Okeke in line with Enaohowo posit that "access to education in its full and extensive sense means free and unrestricted, unimpeded and unregulated opportunities at every level of education to attain knowledge, expertise, and abilities available at the desired level to optimally participate and contribute to development in the society". The next section will look into right to quality equality in a bid to address Nigeria poor human capital investment/development.

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[462] See UNICEF Document on A Human Rights-Based Approach to Education for All. Available at www.unicef.org

[463] Enaohwo, J.K. (2008)," Access, cost and quality in Nigeria education. In BG Nworgu and E.I.Eke (Eds) Access, quality and cost in Nigeria education (pp.3-19).Published Proceeding of the 23rd Annual Congress of the Nigeria Academy of Education".

6.5.   The Right to Quality Education in Nigeria

> "Quality education is an end in itself, enriching knowledge and
> enhancing the capacity to analyse and understand a broad range of
> topics, and is the means to more inclusive and sustainable
> societies. From health outcomes economic prosperity, access to
> and completion of equitable, quality education can help transform
> the lives of individuals and their countries" (UNESCO[464], 2014).

> "All children, no matter where they live or what their
> circumstances, have the right to quality education" (UNICEF).

Addressing Nigeria‟s development challenges to implement the sustainable development goals (SDGs) requires quality education which is a crucial tool that cannot be underestimated. The focus on "ensuring inclusive and equitable quality education and promoting life-long learning opportunities for all" is goal 4 of the United Nations Sustainable Development Goals. In developing countries of the world, particularly Nigeria, many children do not have access to quality education. Overcrowding, dilapidated, and lack of adequate furniture are common features of public schools in Nigeria. In the world of primary school age, Nigeria currently has the highest number of out-of-school drop out of 10.5 million. Under the Millennium Development Goals (MDGs) and Universal Basic Education (UBE), Nigeria experienced significant progress in expanding access to school. However, there is a lack of evidence-based to show that there is an improvement in learning. According to Oraka[465], who argued that "the learning curve in Nigeria is proof that getting children to school does not automatically translate to frequent attendance, grade progression, effective classroom governance, and more importantly learning". He argued further that Nigeria would continue to experience poor quality of education due to several factors that hinder improvement such

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[464] See UNICEF Report (2014)," Global Education Monitoring Report": Teaching and Learning: Achieving quality for all. Paris. UNINESCO.
[465] Osaka, O. (2018)" Nigeria: Achieving Quality Education for All in Nigeria" A paper submitted at World Bank Group and International Monetary Fund Seminars.

"teachers absence, student nonattendance, irrelevant and culturally unresponsive curricula, poor pedagogical content knowledge, dilapidated structures, insecurity (specifically, Boko Haram insurgency in the Northeast region) and inadequate funding are issues that need to be addressed[466]". In a bid to implement sustainable development goals or the 2030 development agenda and lasting socioeconomic development in Nigeria, hence quality education is essential to all. To achieve SDG 4 on quality education, the government needs to invest in quality education and initiate and implement better education policies in a bid to address her development challenges. The next section of this chapter will examine the equality of educational opportunities to address Nigeria"s development challenges.

6.5.1. The Right to Equality of Educational Opportunity in Nigeria

The Universal Declaration on Human Rights of 1948 described education as one of the fundamental human rights. Section 18 (1)[467] of the 1999 Constitution of the Federal Republic of Nigeria states that "Government shall direct its policy towards ensuring that there are equal and adequate educational opportunities at all levels". Section 18(2)[468] states that "Government shall promote science and technology" and most importantly Section 18(3)[469] states that "Government shall strive to eradicate illiteracy; and to this end Government shall as and when practicable provide (A[470]) free, compulsory and universal primary education; (B[471]) free university education; and (C[472]) free adult literacy programme". According to Ekechukwu,[473] equality educational opportunities are "one of the contemporary controversies which have kept both philosophers and sociologists of education very busy in their search for

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[466]Ibi 384
[467] See Section 18 (1) of the 1999 Constitution of the Federal Republic of Nigeria
[468] See Section 18(2) of the 1999 Constitution of the Federal Republic of Nigeria
[469] See Section 18(3) of the 1999 Constitution of the Federal Republic of Nigeria
[470] See Section 18(3)(A)
[471] See Section 18(3)(B)

[472] See Section 18(3)(C)
[473]Ekechikwu. L.E. (2018)" Equality of Educational Opportunity in Nigeria" World Applied Sciences Journal 36 (3): 499-505.

solutions to some of the crises in education. Ordinarily, the desire for equal educational opportunity for all citizens is a very laudable one which should be acclaimed by all those who are concerned with sustainable development". Adele[474] posits that educational opportunities can be seen as "a combination of educational circumstances whereby the individual is enabled to engaged in a process of developing his/her capabilities through acquisition of skills, attitudes and values both for his/her own benefits and for the benefit of his society" They went further to state that equality on the other hand means "a condition of having g equal privileges with others. Even if the available privileges are inadequate, the individual can be seen to get equality of treatment if he/she employs a fair level of those privileges in relation to other individuals concerned. Equality in this respect has thus to do with fairness in the distribution of the privileges[475]".In addition, according to UNICEF[476], "the global figure for out-of-school children is estimated at 121 million of which 65 million are girls and over 80 percent of these girls are from Sub Saharan Africa. It may interest us to know that one out of every four of the 80 percent lives in Nigeria". In the North, girl"s access to basic education has remained low when compared to the South[477]. The report from Gender Equality Index suggests that out of the 134 countries Nigeria ranks in 118 positions. In other words, for Nigeria to achieve Sustainable Development Goals, the government would have to put all necessary machinery in place by investing in quality education[478]. The next section of this chapter will look into the issue of equality of educational opportunities and the quota system.

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[474]Adele, S.O. and Uwameiye. R. (2012)" Issues in Utilisation of Equalisation of Educational Opportunities: Implication for Peace Education in Nigeria"
[475] Ibid
[476] See UNICEF Report on development 2017
[477] Ibid
[478]Ekechukwu, L.E. (2018)" Equality of Educational Opportunities in Nigeria.

6.5.2. Equality of Opportunities and the Quota System

In an attempt to re-engineer the elite formation process due to the Northern agitation in federal institutions, the issue of quota system was introduced into the educational system in Nigeria. According to Oyovbaire[479], in a bid to change the elite recruitment structure, the new quota system in the educational system was introduced by „altering the composition of the input" into the educational system. According to Yoloye[480], "an earlier effort to bolster Northern participation in the education system through the introduction of regional quotas system had been rejected on two different occasions first in 1952 and secondly in 1961, when the federal government reiterated its commitment to building a university system with a national outlook but based on the merit on the merit principle". However, to adjust ethno-regional participation levels, interventionist nations build military regimes from 1970 increasingly focused on the educational system. The quota principle has failed in the educational sector to make a dent in the yawning gap in the educational sector and professional between the North and South. According to Oyovbaire[481] the implementation of quotas has "led to a tendency to lower, and even abandon, the minimum education standards which must be met by candidates from less developed localities, communities and states before entry into institutions". In light of the above, Igbokwe[482] states that the Southerners expressed strong resentment and states that:

> "We believe the quotas system is a good and suitable policy for a
> heterogeneous society such as Nigeria as it is intended to prevent
> the domination of our national life by one group. But the way it is
> being practised tends to encourage and reward mediocrity and

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[479] Oyovbaire, S.E. (1983)," Structural change and political process in Nigeria". African Affairs, vol.82 No. 326, pp.3-28

[480] Yoloye, E.A. (1989)," Federal character and institutions of higher learning" in P.P. Ekeh and E.E Osaghae (eds), Federal Character and Federalism in Nigeria. Heinemann, Ibadan.

[481] Ibid 398

[482] Igbokwe, J. (1995)," Igbos: Twenty-Five Years After Biafra". Advent Communications, Nigeria.

hinders the effective participation of Southerners. Our children are sentenced to excruciating deprivation"

Also, the apparent absence of uniform or equal facilities between North and South Nigeria is another dimension to the principle of equality of educational opportunities. Quotas systems are cognate policies of the government of the federal republic of Nigeria to diffuse ethnic tension and promote national integration and development. Various commentators have argued in favour and against the system. For instance, Adenle[483] states that in the South, the number of space for applicants into secondary is 85 percent, while in the North, the number is 5 percent. The last section of this chapter will evaluate a Human Rights-Based Approach application to achieve development outcomes in Nigeria.

6.6. APPLICATION OF A HUMAN RIGHTS-BASED APPROACH TO ACHIEVE DEVELOPMENT OUTCOMES IN NIGERIA

Applying a Human Rights-Based Approach to achieve development outcomes involves empowering stakeholders. This will be based on the established human rights framework with clear accountability and ensuring that those most vulnerable, such as women, girls, and the Almajiris in the North, are considered and that they are not discriminated against. As discussed in chapter three of this thesis, a human rights-based approach empowers all key stakeholders, who are policymakers, women, boys, and girls, are empowered to participate in achieving the realisation of rights. It also considers international and the wider national human rights framework provides clear accountability and ensures that the most vulnerable, in other words, the marginalised or excluded people, are not discriminated against in a bid to address poor human capital development in Nigeria. Further, five fundamental human rights principles underpin a Human Rights-Based Approach, and they are referred to as the PANEL

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[483]Adenle, S.O. and Olabiyi, O.S. (2005)," Funding Technical Education for Sustainable Youth Empowerment". Nigeria Association of Teachers of Technology (NATT) Book of Proceedings. 302-305.

principles. The following are the panel principles. Participation provides the opportunity for the rights holder to participate in all decision that affects their development process and outcomes. Accountability and transparency of duty-bearers to rights-holders is a process that ensures that the standards of accountability and transparency for human rights are as high as possible and also ensure a legal framework in case of a breach of rights by the duty-bearer. Non-discrimination and equality, empowerment of rights-holders, for example, women, girls, and boys, have different identities. Each of these identities should be respected by investing in human capital to address Nigeria's development challenges, particularly in the North. Finally, legality ensures that government as the duty-bearer must invest in education and health as domesticated in Nigeria through the ratification and enforcement act of the African Charter on Human and Peoples Rights, also known as the Banjul Charter.

Also, according to Boesen and Martin[484], who argued that the application of a human rights-based approach to development "make visible the categories of those with an obligation to ensure rights, the duty-bearer and those who are entitled to enjoy these rights known as the rights-holders. The application of a human rights-based approach to addressing development challenges in Nigeria will automatically raise questions about the actions and accountability of duty-bearers" In support of the above , Sen[485] states that "achievement of development is thoroughly dependent on the free agency of people which provides the opportunity of a stronger voice for rights-holders to demand change".

In light of the preceding, practical application of a human rights-based approach to addressing development challenges, particularly poor human capital development or investment in Nigeria requires public policies guided by human rights principles and norms.

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[484] Boesan, J., and Martin, T. (2007)," Applying a Rights-Based Approach an Inspirational Guide for Civil Society". Copenhagen: Danish Institute of Human Rights.
[485] Sen, A. (1999)," Development as Freedom".UK: Oxford University Press.

The Human Development[486] Report 2000 states that "the success of human rights-based development strategies will primarily rest on the recognition and respect for the primacy of universal human rights by the State norms, institutions, legal frameworks and enabling economic, political and policy environment". The following intrinsic steps need to be followed when adopting a human rights-based approach to achieve development outcomes in Nigeria. These are advocacy and activism, institutional development, implementation, monitoring, redress, and specific measures. Activism and advocacy are necessary steps required to address Nigeria's development challenges, particularly poor human capital development/investment. According to Danish Civil Society Organisation (DCSO)[487] advocacy in the context of a human rights-based approach is defined as "targeted measures in respect of fundamental human rights which influence decision-makers and citizens at local, regional and international levels, and which seek to form and guide political, economic, cultural and social processes and decisions with a view to improving the living conditions of relevant groups of the population". The poor human capital development or investment is particularly higher in the North than in the South. As discussed earlier in this chapter, the Almajiris, women, and girls in the North lack quality education to empower them to contribute their quota to achieving the 2030 development agenda. According to UNICEF, of the 10.5 million children that are out of school, 90 percent of this figure is from the North. The application of a human rights-based approach to addressing Nigeria's development challenges using advocacy and activism ensures that participation and inclusion principles are central to implementing the sustainable development goals in North and South Nigeria. In light of the foregoing, advocacy and activism become critical features of a human rights-

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[486] See Human Development Report 2000 on Human Rights and Human Development
[487] See" General Principles Governing Support to Development Activist Implemented by Danish Civil Society Organisations" (Copenhagen: Ministry of Foreign Affairs, 2014). Available at www.amg.um.dk/en/technical-guidelines/financial-management/accounting-and-auditing.Accessed 4, November 2019.

based approach in addressing Nigeria's development challenges particularly, poor human capital development in the North.

Further, institutional development involves the creation of sustainable institutional systems. In order words, designing appropriate management institutions will help apply a human rights-based approach to address Nigeria's development challenges, particularly the poor human capital development/investment to achieve the 2030 development agenda. The creation of institutional development focuses on institutions' strength, from which entitlement may be derived from the duty-bearer by the rights-holders. The marginalised group, such women, girls, and the Almajiris in the North could benefit from institutional development to address poor human capital development facing the region to achieve sustainable development goals or the 2030 development agenda. If Nigeria is to achieve the core pill of the sustainable development goal, which is "leaving no one behind" the government should invest in human capital such as education and health as discussed earlier in this chapter. Also, implementation, which involves applying human rights in law and reality and as clearly noted in the "Constitution of 1999" as amended, arguably attracted more controversy than any other chapter of the Constitution in terms of enforcement or justiciability. However, the (Ratification and Enforcement) Act make the provision of the African Charter on Human and Peoples" Rights, which are set out in the Schedule to this Act shall, subject as there underprovided, have the force of law in Nigeria and shall be given full recognition and effect and be applied by all authorities and persons exercising legislative, executive or judicial powers in Nigeria[488]. In light of the above, women, girls, and the Almajiris, in the North who are marginalised could seek redress to ensure that their voices are heard. The next step involves monitoring in the application process. Monitoring involves creating an effective system for societal monitoring of human rights enforcement in Nigeria. As stated in chapter

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[488] See the African Chapter on Human and Peoples" Rights (Ratification and Enforcement), Act Chapter A9.

one and chapter three of this thesis, education, and health are rights under chapter 11 of the Federal Republic of Nigeria's Constitution. Fundamental Objectives and Directive Principles of State Policy are generally termed non-justiciable under the constitution, as stated earlier in this chapter. However, under the African Charter on Human and Peoples' Rights (ACHPR) which is now domesticated under CAP 10 LFN 1990 and has become justiciable and enforceable in Nigeria.

The Constitutional Obligations states that government "recognises the need to ensure that there exist adequate medical and health facilities for all persons living in Nigeria". S17 (3) D also states that States must take "reasonable legislative and other measures within its available resources, to achieve the progressive realisation of the right of access to health care services". International Obligations are guided by "Article 25 of the Universal Declaration of Human Rights, article 12 of the International Covenant on Economic, Social and Cultural Rights and a host of other already discussed earlier in this chapter".

Further, as discussed earlier in this chapter, the right to education is also under chapter 11 of the Constitution of the Federal Republic of Nigeria. Section 18 of the 1999 Constitution states that "Government shall direct its policy towards ensuring that there are equal and adequate education opportunities at all levels; government shall promote science and technology; government shall strive to eradicate illiteracy; to this end government shall as when practicable provide (a) free compulsory , universal primary education (b)free secondary education (c) free university education and (e) free adult literacy programme" Nigeria is also a signatory to international obligations such as the Universal Declaration of Human Rights-Article 26 which provides that "education shall be directed to the full development of the human personality maintenance of peace, strengthening respect for human rights and fundamental freedoms". Other international obligations include the International Covenant on Economic, Social and Cultural Rights (ICESCR) Article 13 which states that "states parties

recognise the rights of everyone to education, education as a tool of empowerment for all citizens to participate effectively in a free society, promote understanding, tolerance etc." others include Convention on the Rights of the Child –Article 29. However, women, girls, and the Almajiris in the North have been marginalised, and as a result have poor human capital development. According to OHCHR, "the death rate and injuries suffered by women and adolescent girls in pregnancy and childbirth, as well as by infants and young children, are largely preventable, yet they still occur at alarming rate in the North when compared to the South". In light of the foregoing, effective systems for societal monitoring of human rights enforcement could be achieved by the following bodies. This includes the National Human Rights Commission, judiciary, parliament, ministry of health, ministry of education, universal basic education, and the Civil Society Group. Also, redress involves a transparent mechanism to correct human rights violations in Nigeria. According to Pillay, who states that:

> "Rule of law and institutional reform cannot start with a clean slate. Understanding the pattern of past human rights violations and ending impunity for the worst violations are indispensable for successful transformative processes. At the core of any effort to establish accountability are three indispensable and interlinked rights: the right to truth, the right to justice, and the right to effective remedy and reparation. In order to implement these rights, a comprehensive strategy is required that involves government and civil society and addresses gaps of knowledge, capacity and political commitment".

In light of the above quote, it is evident that justice is regarded as an indispensable companion of truth. However, it is essential that people who have been marginalised, for example, women, girls, and the Almajiris in the North, must be empowered to make an informed decision on how they can exercise their rights and obtain redress. Today, the National Human Rights Commission is set up to address gross violations of human rights,

particularly as it affects the citizens' economic, social and cultural rights and not just the Civil and Political Rights. According to UNDP[489], application of a human rights-based approach:

> "... adds a missing element to present activities by enhancing the enabling environment for equitable development, and by empowering people to make their own decisions. It brings in legal tools and institutions-laws, the judiciary and the rule of law principle as a means to secure freedoms and human development".

As stated earlier in this chapter, human rights based approach "provides both a vision of what development should strive to achieve, that is to secure the freedom, well-being and dignity of all people everywhere and also as a set of tools and essential human rights standards and principles[490]". According to Albertyn[491], the application of human rights-based approach to development "lies particularly in the transformative potential of human rights to alleviate injustice, inequality and poverty. Human rights are moral norms, standards of accountability and weapons in the struggle for social justice". To achieve sustainable development goals in North and South Nigeria, women, girls, and the Almajiris who have been marginalised in terms of poor human capital development could seek redress as right-holders from the government duty-bearer in a bid to achieve development outcomes.

Lastly, specific measures in terms of affirmative action for addressing structural issues that perpetuate inequality and discrimination should be in place in Nigeria. In Nigeria, there is a strong dimension of "horizontal inequality" in terms of development outcomes as a result of poor human capital development between the North and South. Discrimination according to Piron and O'Neil[492] reflects "socially-constructed identities and interests which, depending

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[489] See A Draft Report on" A Human Rights-Based Approach to Development Programming in UNDP-Adding the Missing Link" Available at www.undp.org. Accessed 7 November 2019.

[490] Ibid

[491] Albertyn, C. (2000), cited in Ibid, 411.

[492] O'Neil, T and Piron, L. H. (2003),"Rights-Based Approaches to Tackling Discrimination and Horizontal Inequality" Background Paper: Poverty and Public Group Overseas Development Institute.London

on the situation, operate along the lines of gender, religion, class, ethnicity, age and other dimensions". One of the major factors responsible for development challenges in Nigeria is lack of respect for equal rights and difficulties in claiming entitlements. In particular women, girls, and the Almajiris in the North are subject to legal, political, social or cultural discrimination. Article 1 of the Universal Declaration of Human Rights (UDHR) 1948 states that "All human being are born free and equal in dignity and rights" The above article ensures that every human being can realise his or her human rights based on the principles of equality and non-discrimination which are fundamental regardless of "race, ethnicity, language, religion, gender or any other sources of distinction".

 To address inequalities in treatment as a well as outcomes, affirmative action involves human rights treaties adopting "special measures" Investment in human capital development, such as education and health are of particular importance and adequate policy need to be put in place to ensure equality of access. There is need for affirmative action because it provides an equal playing field between the North and South particularly, women, girls and the Almajiris that have been marginalised. For Nigeria to achieve sustainable development goals in terms of human capital development (education and health) there is a need for "developmental affirmative action" in order to bridge the gap in terms of development outcomes between the North and South. According to Loury[493], developmental affirmative action refers to "measures that seek to meet the required levels of participation by a particular group without using differentiated standards of evaluation. Examples include measures that aim to enhance the performance of target groups, for example through assistance either in terms of knowledge that is investment in education and health". Nigeria need to avoid negative responses to a developmental affirmative action, according to Alexander and

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[493] Loury, G. (1999)," Social Exclusion and Ethnic Groups: The Challenges to Economics" paper submitted for the Annual World Conference on Development Economics, Washington, DC, 28-30.

Jacobsen[494], because such action include "policies that also factor in class considerations to foster multiracial support for reforms, or which can build gender coalitions across income and social status differences. For example, equalised funding of public education can help close the gap between North and South test performance, rather than relying on quotas for North students". The beneficiaries of development are referred to, as rights-holders as stated earlier in chapters 2 and 3 of this thesis, and not subject to charity; this provides an opportunity for them to make legitimate claims on the duty-bearer for their rights to be respected.

6.7. HRBA AND ITS IMPLICATIONS FOR ORGANISATIONS AND STAKEHOLDERS

Human Rights Based Approach and its implications for organisations and stakeholders cannot be overestimated because it helps organisations and stakeholders identify, mitigate and report on the human rights impacts of their activities. It also provides advice on how organisations and stake holders can meet the United Nations Guiding Principles on their activities and Human Rights[495]. Human Rights Based Approach does add value to development because there are two main rationales for a Human Rights Based Approach. These are (a) intrinsic rationale, in other words, acknowledging that a human rights based approach is the right thing to do, morally or legally and (b) instrumental rational, recognising that a human right-based approach leads to better and more sustainable human development outcomes[496]. Human Rights-Based Approach can help to resolve conflicts in an organisation and between different stakeholders in development. In other words, while development is not a zero-sum game, all entitlements cannot be realised for all people at once. Clashes of interest are inevitable, and development actors profoundly influence the pattern of winners and losers nationally. Conflicts swept under the carpet and grievances ignored can be recipes for violent

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[494] Jacobson, B and Alexander, G.G (2001)," Analysing the two-level game: International and national determinants of change in education policymaking.

[495] Business and Human Rights: A seven-step guide for managers (2017) Available at www.equalityhumanrights.com Accessed 25 December 2020

[496] Unicef briefing paper on HRBA to Programming. Available at www.unicef.org/policyanalysis/rights/index_62012.html Accessed 27 December 2020

confrontation. Conversely, and more positively, non-violent conflict can help create space for dialogue and generate impetus for social change[497]. An organisation may affect people"s human rights through its own activities or through its business relationships. It is important to note that Human Rights are basic rights and freedom for everyone based on dignity, fairness, equality and respect. In other words, by implications, the impact can be positive, ensuring decent pay, and providing safe working conditions. However, the impact can also be negative such as child labour or forced labour, breaches of individuals" privacy or restrictions on free speech; poor safety or security practices; and environmental pollution causing harm to people"s health[498]. These impacts on human rights can arise in organisation operation abroad and can lead to operational, legal, financial or reputational risks, such as complaints, operational delays or litigation that drive up costs and harm the organisation brand. When organisations and stakeholders operate with a culture of respect for human rights they become brands, partners, investment and employers of choice. It is therefore important that organisations prepare a human rights policy commitment which signals the importance they attaches to respecting human rights. It can be a standalone statement or be integrated into existing policies, such as a code of conduct or a values statement. A human rights policy commitment should include the following:

- Reflect the organisation"s commitment to respect human rights in line with national and international standards, such as the Human Rights Acts 1998, UN Guiding Principles and the International Labour Organisation"s core conventions[499].

- Identify the human rights issues most relevant to your operations.

- Commit to an on-going review of the policy and your human rights impacts

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[497] Ibid
[498] Ibid
[499] See The Human Rights Act 1998, as it applies to public authorities, or private organisations providing a public service. The aim of referencing international standards gives your organisation and relevant stakeholders a common reference point for definitions and approaches.

In addition, the need to embed human rights policy commitment into your organisation culture and practices by ensuring it has expertise on human rights, distinct from other aspects of sustainability. The needs to ensure that senior management are allocated lead responsibility for human rights at its operational levels, and equip staff for those roles. The need to also ensure that resources it uses to address human rights needs to be proportional to its risk. In a bid to make human rights a consistent part of how your organisation carry out its operations[500], manages risks and reports on activities, it is imperative to:

- Identify shared responsibility across different company functions whose actions and decisions may pose risk to human rights

- Amend existing policies and processes and ensure staff understand them

- Implement governance procedures to make sure the most severe and systemic human rights issues are brought to the attention of organisation senior ream

- Encourage staff to talk openly about human rights issues, including tensions between human rights and commercial priorities, when taking business decisions

- Identify indicators to assess the effectiveness of human rights risk management processes, and improve your organisation approach to identifying and mitigating human rights risks.

Further, achieving sustainable development goals SDGs 3 and 4 with regards to equality demands a human rights-based approach. The situation of deprived or marginalised women, girls and the Almajiris in the North and the structural causes of exclusion and poverty, cannot be addressed without providing those marginalised with a voice and space to participate in decisions affecting them. If progress towards equality is made without accompanying progress in other areas fundamental to human rights, it is likely that the gains will only be

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[500] See the Guiding Principles on Business and Human Rights: Implementing the United Nations Projects Protect, Respect and Remedy Framework. Available at www.ohchr.org Accessed 1 January 2012

short-term. Investments in SDGs 3 and 4, that is education and health for the marginalised regions or groups that are not accompanied by, and based upon, structural changes in governance and in the knowledge, attitudes, and practices of communities are at best fragile. It is therefore important that organisations and stakeholders with power to shape lives must be accountable to the most deprived or marginalised, if inequalities between the North and South are to be overcome. Discrimination must be identified, understood, and challenged to achieve equitable development between the North and South.

RECOMMENDATION AND CONCLUSION

7.1. Reflections and Observations

In the last three decades, the world has gone through a remarkable transformation as a direct consequence of the various development challenges, technological innovations; different development plans, particularly in Africa and Nigeria, have failed to achieve the desired development outcome and an array of social-economic demands. Currently, the Nigeria education and health sector are quite evidently, incapable of meeting the nation's human capital development challenges. The Nigeria State has systematically failed to fulfil, protect and respect the right to health and education, which are the two main pillars in human capital development. However, there is a legitimate scope as set out in the Declaration on the Right to Development for international organisations to collaborate and ensure a child's rights to education. In light of the above, this thesis argued in chapter three that the poor human capital development in Nigeria is still hampered because it has not entirely broken loose from the influence and impact of the objectives and philosophy of education at its foundation by the British colonial administrators. Education development efforts were primarily limited to and determined by the colonial government's needs alone. As discussed in chapter three of this thesis, investment in education and health were not accorded priority, neither were they informed by the need to developed the Nigeria society to meet the needs of Nigeria and improve the quality of life of her citizens. Further, the Danish Human Institute states that "the 2030 development agenda and human right instruments are tied together in a mutually reinforcing way. Further, the Danish Human Institute states that "the 2030 development agenda and human right instruments are tied together in a mutually reinforcing way. In other words, human rights offer a legally-binding framework as well as guidance for the

implementation of the 2030 agenda because the 2030 sustainable development goals offer a vision of social and economic transformation rooted in respect for universal human rights" In other words, human rights treaties set standards that Nigeria, as a member state to the treaties, must adopt and action. Human rights lie at the core of the 2030 Agenda. The Agenda envisages a world of universal respect for human rights and human dignity, the rule of law, justice, equality, and non-discrimination; as regard race, sex, ethnicity, and cultural diversity; and of equal opportunity permitting the full realisation of human potential and contributing to shared prosperity; a just, equitable, tolerant, open and socially inclusive world in which the needs of the most vulnerable are met. According to UBEC[501], Nigeria now has 13.2 million out-of-school children compared to what it was in 2013 when the figure was 10.5 million according to UNICEF. This has a negative impact on human capital development in the North compared to South Nigeria. In a bid to address Nigeria's development challenges, there is a need for human capital investment, particularly in the North, to implement sustainable development goals SDG 3 and SDG 4. In light of the above, the SDGs further commit to fostering peaceful, just, and inclusive societies free from fear and violence. Because there can be no sustainable development without peace, and there can be no peace without sustainable development.[502] Therefore, critical steps for sustainable development include promoting good governance, the rule of law, human rights and fundamental freedoms, equal access to fair Justice Systems, combating corruption, and curbing illicit financial flow. Human rights, human capital development, and sustainable development goals (SDGs 3 and 4) are interrelated, inter-dependent, and indivisible. When objectively applied, human rights norms provide a framework for equality and non-discrimination, which ensures that human capital development benefits are also enjoyed even by the most marginalised or vulnerable group in Nigeria, particularly among women, girls, and the Almajiris in the North.

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[501]See Universal Basic Education Commission Report (2018)," Rescuing Nigeria‟s 13.2 Million Out-of-School Children.

[502]Ibid, Preamble para 8 on peace.

Besides, for the protection and promotion of all human rights, a human rights-based approach helps set out a uniform standard to be followed, eradicating inequalities, addressing discrimination, empowering the vulnerable, and boost development in North and South Nigeria. In recent years an increasing emphasis has been placed on human rights-based approaches to development. The importance of a human rights-based approach brought about a shift from needs-based or service-delivery approaches that have failed to "substantially" reduce poverty and address human capital development challenges in Nigeria and Africa. One fundamental limitation of both the needs-based or service-delivery approaches has been that the authority who undertakes these approaches may not be sensitive to the vulnerable or marginalized needs, particularly women, girls, and the Almajiris in the North. A human rights-based approach is relevant to achieving the SDGs in Nigeria. The right to equality and non-discrimination gives concrete expression to the basic idea on which the whole international human rights system is founded: that all human beings, regardless of their status or membership of a particular group, are entitled to a set of rights. Article 1(3) of the UN Charter clarifies that one of the UN's basic purposes of promoting the equal guarantee of the human rig. The relevance of a human rights-based approach in achieving human capital development (SDG 3 and 4) in Nigeria requires safeguards to be included in development instruments to „protect the rights and well-being of marginalised groups".

While seeking to empower local participants, all development decisions, policies, and initiatives, including those concerning (SGD3) healthcare and (SDG 4) education are also expressly required to guard against reinforcing power imbalances or contribute creating new ones. The achievement of full human capital development and sustainable development is not visible if the North continues to be denied full human rights and opportunities. Adopting a human rights-based approach in addressing Nigeria development challenges will help in realising gender equality and the empowerment of women, girls, and the Almajiris in terms of

equal access to (SDG3) which is to ensure healthy lives and promote well-being for all at all ages, (SDG4) which ensure inclusive and equitable quality education and promote lifelong learning opportunities for all. Equal opportunity in terms of economic resources and political participation as well as equal opportunities with men and boys for employment, leadership, and decision-making at all levels[503].

A Human Right-Based Approach to development can be applied to achieve development outcomes by examining the benefit of the approach in terms of moral consensus and legal obligation. It sets the achievement of human rights as an objective of development. The approach acts as a scaffolding of development policy and invokes the international apparatus of human rights accountability to aid development outcomes in Nigeria. Further, to address the nations' development challenges, Nigeria must tailor a human right-based approach towards addressing discrimination, equality, vulnerable groups, particularly women, girls, minorities, indigenous peoples, and the internally displaced person. To achieve development outcomes in Nigeria, adopting the human rights-based approach requires a high degree of participation that involves communities, indigenous people's minorities, civil society, and women and girls. The approach must ensure that development policies, decisions, and initiatives must not reinforce the existing North and South divide, power imbalance between men and women, workers, and employers whilst seeking to empower local participation. Human rights principles and standards will help make health policy that aims to develop duty-bearers' capacity to meet their obligations and empower rights-holders to effectively claim their health rights. At the core of a Human Rights-Based Approach (HRBA) is eliminating all forms of discrimination. Achieving gender equality is a critical strategy in gender mainstreaming and eliminating all forms of discrimination based on sex. Goal, process and outcome are the core aspects of the Human Rights-Based Approach building on

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[503] See Golay.C, Bigina. I and Truscan.I (2012)" The Contribution of the UN Special Procedure to the Human Rights and Development Dialogue, 17 SUR-International Journal of Human Rights.

the United Nations (UN) common understanding. Adopting a human rights-based approach will help achieve all health policies and strategies necessary in addressing Nigeria's human capital development challenges. Discrimination in laws and policies are some of the defining challenges of our time, which led to the rising level of inequalities in North and South Nigeria, putting sustainable development at risk, threatening economic and political stability, and violating human rights, as discussed in chapter three of this thesis. One of the primary principles of human rights is the principle of equality. With reference to international law, the principle of non-discrimination prohibits "discrimination in the enjoyment of human rights on any ground, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status[504]". These practices are also required to be addressed by the state under equality and non-discrimination. Also, the key issue of investing in education and health, which are the two pillars of human capital development is central to the country's development, and has been largely neglected. According to Asaju[505], Nigeria budgetary allocation in terms of education failed to meet the UNESCO recommended guideline, which is 26 percent of the country''s annual budgets. Other commentators in likes of Aigbokan[506] et al states that:

> "A cursory look at the magnitude and trend of increase in allocation might be misleading in passing judgment on the budgetary performance until they are placed side by side with their percentage allocations. The characteristic pattern of the government''s allocation to education and health in Nigeria as a percentage of the total budget revealed inconsistency. That is health and education expenditure. We''re not considered as policy targets in the overall budgeting, or else they wound have

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[504] See UNDP Report on A human rights-based approach to development programming in UNDP-Adding the missing link.

[505] Asaju, K. (2012), "Human Capital Development and Poverty Alleviation in Nigeria: A Symbiotic Overview". Journal of Public Administration and Governance, 2(4), 110-118.

[506] Aigbokhan,B., Imahen,., O and Ailemen, .M.I. (2007), "Education Expenditure and Human Capital Development in Nigeria: Any Correlation so far. Research Paper Abrose Alli University.

maintained an increasing proportion of the yearly budget of the nation. Since the late seventies, budgetary allocations to education have not matched the increasing need for qualitative education for young Nigerians to be globally competitive".

The low human capital investment in education and health can be seen as the major factor responsible for Nigeria's development challenges, particularly in the North. Due to poor funding and corruption, Nigeria has not met the United Nations basic education guideline, which states that basic education should be free, universal, and compulsory in all countries. Health is also an essential pillar in human capital development and the most important asset for every individual. Addressing Nigeria's development challenges in terms of poor human capital development requires sound health, which positively impacts mental well-being and increases productivity. According to the Health Sector Development Team[507]:

> "The poor performance of the health system is not helped by the lack of clearly defined roles and responsibilities which results in duplication of efforts. This is compounded by inadequate political commitment especially at lower levels, poor coordination, lack of communication between various actors, lack of transparency and poor accountability. In addition, the private sector, a major contributor to health care delivering in the country, is poorly regulated due to weak capacity of state governments to set standards and ensure compliance. All these factors have led to the lack of strategic direction and an inefficient and ineffective health care delivery system".

In light of the foregoing, poor human capital investment in health and education need to be addressed, particularly women, girls, and the Almajiris in the poorest rural communities in Northern Nigeria. According to the World Economic Forum[508] "A nation"s human capital

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[507] See Health Sector Development Team (2009), "The National Strategic Health Development Plan Framework (2009-2015)"

[508] See the" World Economic Forum explains in the preface to its 2016 Human Capital Report (2016)".

endowment, in other words, the knowledge and skills embodied in individuals that enable them to create economic value, can be a more important determinant of its long-term success than virtually any other resources". The following are some of the essential recommendations necessary in addressing Nigeria''s development challenges.

7.2. The need for Institutional Development

Institutional development involves the creation of sustainable institutional systems. In order words, designing appropriate management institutions will help in the application of a human rights-based approach to address Nigeria's development challenges, particularly the poor human capital development/investment, in a bid to achieve the 2030 development agenda. The creation of institutional development focuses on institutions' strength, from which entitlement may be derived from the duty-bearer by the rights-holders. The marginalised group, such as women, girls, and the Almajiris in the North, could benefit from institutional development to address poor human capital development facing the region to achieve sustainable development goals or the 2030 development agenda. If Nigeria is to achieve the core pill of the sustainable development goal, which is "leaving no one behind," the government should invest in human capital such as education and health, as discussed earlier in this chapter.

7.3. The need for Human Rights-Based Participation and Inclusion

Bringing healthcare closer to the citizen by involving local communities in its implementation is crucial for realising the right to health by adopting a human rights-based approach. A human rights-based approach ensures that the citizen is entitled to "active, free and meaningful participation" in the decision as it affects the citizen, such as the "design, implementation and monitoring" of health interventions to address Nigeria's human capital development challenges. Being involved in the development process provides opportunities

for groups, individual, vulnerable, or the marginalised, to have the right to choose their representative and to make a decision collectively[509]. According to Sitta[510], "they should also be able to control those fundamental choices important to them and take part in all those mechanisms and processes that can affect them. Vulnerable or the marginalised groups should not be left out and their rights and needs must also be considered. Any inequality based on sex, ethnicity, disability, religion and any other category that could affect the enjoyment of human rights should be discarded, and specific reference to national and international human rights instruments must be taken into account".

Participation is a right with profound consequences for the design and implementation of development activities and not merely something desirable from ownership and sustainability. In general, it involves the exercise of power and access to decision-making. Participation ensures increases to the needs of the people they are intended to benefit from and increases ownership based on policies and programmes tailored to their needs. A critical component of participatory processes is information sharing. If relevant information is available on time and can be easily accessible, participation can be regarded as meaningful and accessible in different languages, religions, and cultural backgrounds. According to Norton and Gacitua-Mario[511] "the political and economic system of countries should guarantee participation so that people can be aware of their societal needs and determine their priorities among themselves. Such determine will enable government come to their aid instead of total abandonment and ignorance of their plight". Griffiths opined that "whenever the government makes plans, the people concerned should be consulted through appropriate

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[509] See Paragraph 147," Global Consultation on the Realisation of the Right to Development as a Human Right, U.N. Commission on Human Rights, 46th Sess., Agenda Item 8, U.N. Doc. E/CN.4/1990/9/".

[510] Sitta., A. (2015),"The Role of the Rights to Development in the Human Rights Framework for Development" Available at www.capabilityapproach.com/pubs/5_1_sitta.pdf>. Accessed 26 February 2020.

[511] Norton., A and Gacitua-Mario Estanislao (2009)," Increasing Social Inclusion through Social Guarantees in EstanislaoGacitua-Mario, Andrew Norton and Sophia V. Georigieva (eds), Building Equality and Opportunity Through Social Guarantees: New Approaches to Public Policy and the Realisation of Rights". The World Bank.

procedure. This will enable them to participate in the formulation, implementation and evaluation of those plans and programmes[512]".

Participation ensures increases to the needs of the people they are intended to benefit from and increases ownership based on policies and programmes tailored to their needs. A critical component of participatory processes is information sharing. If relevant information is available on time and can be easily accessible, participation can be regarded as meaningful and accessible in different languages, religions, and cultural backgrounds. The lack of human rights-based participation hinders human rights in addressing Nigeria's development challenges, particularly human capital development. The lack of participatory process hinders development actors from understanding the vulnerable group or the marginalised women, girls, and the Almajiris in the North compared to the South. For the citizen to maximise their potential, the principles of participation and inclusion must be encouraged. This, in turn, provides an opportunity and a supportive environment that enables the citizen to develop their full potentials and creativity by adopting a human rights-based approach to address Nigeria's human capital development challenges.

7.4. Ensure the right to education and health

The role of education in all societies and throughout human history has been vital, both as a means for the individual and society to develop and as an end in itself. The right to education, according to the United Nations Committee on Economic, Social and Cultural Rights, otherwise known as (ComESCR) "epitomises the indivisibility and interdependence of all human rights" In other words, the right to education is both a civil and political right and a social-cultural right[513]. The right to education as a universal and fundamental right has long

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[512]Griffiths., T. (2003)," A Failure of Accountability: Indigenous Peoples, Human Rights and Development Agency Standers-A Reference Tool and Comparative Review". Available at www.forestpeoples.org/documents/law. Accessed26 February 2020

[513] See" ComESCR General Comment 11, UN Doc E/C.12/1999/4 (1999) para 2"

been recognised in various "global or international treaties, regional and national legal instruments". EFA's main objective by the year 2015 was to reduce the level of illiteracy and poverty and achieve universal education. It provides useful information in terms of gender equality if we are to achieve equity in education to address human capital development challenges. The declaration is also necessary because it ensures access to improve the quality of education for women, girls, and the Almajiris. The right to education in global or international treaties has been affirmed in numerous global human rights treaties such as "United Nations Educational, Scientific and Cultural Organisation (UNESCO), Convention against Discrimination in Education (1960), the International Covenant on Economic, Social and Cultural Rights (ICESCR)in (1966), the Convention on the Elimination of All Forms of Discrimination against Women (1981) and the Convention of the Rights of the Child (CRC)[514]" The above stated treaties according to UNESCO establish "an entitlement to free, compulsory primary education; an obligation to develop secondary education supported by measures to render it accessible to all children, as well as equitable access to higher education; and a responsibility to provide basic education for individuals who have not completed primary education[515]". Further, to render protection for both the Civil and Political Rights and Economic, Social and Cultural rights, various other regional treaties have been elaborated to make it more efficient. By protecting and promoting human rights in specific areas of the world, the international human rights framework is complemented by regional human rights instruments. The African Charter on Human and Peoples' Rights is a key binding African regional instrument because it recognises the right to education and states that every individual shall have the right to education[516]. The right to education in Nigeria"s legal framework is enforceable or justiciable in Nigerian court against the government who is

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[514] See UNESDOC (2007) on A Human Rights-Based Approach to Education for All. Available at www.unesdoc.unesco.org Accessed 15 October 2019.
[515] Ibid
[516] See Article 17.1 of the ACHPR 81.

the duty bearer as recently being held as the court declares free, compulsory basic education an enforceable right. In a human rights-based approach, the issue of justiciability of the right to education is an important tool.

Further, to address human capital development, the government will have to ensure that the right to health of every individual is taking into consideration without leaving anyone behind if Nigeria is to achieve the 2030 development agenda. Realising the right to health and other health-related human rights is achievable by adopting a human rights-based approach to address Nigeria's human capital development challenges. Human rights principles and standards will aid in making health policy that aims to develop duty-bearers' capacity to meet their obligations and empower rights-holders to effectively claim their health rights. At the core of a Human Rights-Based Approach (HRBA) is the elimination of all forms of discrimination. Achieving gender equality is a key strategy in gender mainstreaming and eliminating all forms of discrimination based on sex. Goal, process and outcome are the core aspects of the Human Rights-Based Approach building on the United Nations (UN) common understanding. To further advance the realisation of the right to health and other health-related human rights as laid down in national and international human rights legislation, adopting a human rights-based approach will help achieve all health policies and strategies.

7.5. Ensure Equality and Non Discrimination

Under international law, Nigeria is required to identify and eliminate discrimination and ensure equality between women, girls and the Almajiris in the North and other citizens in the South. In light of the above, the sustainable development framework should be based on the principles of equality and non-discrimination, as argued in chapter 4 of this thesis. To repeal discriminatory provisions or address discriminatory practices by the government, there is a need for administrative or legislative reform and a change in resource allocation, education,

and health measures between North and South Nigeria. To address the marginalized social and economic needs, such as women, girls, and the Almajiris in the North, the sustainable development framework should be tailored towards achieving development outcomes. This must include ensuring that targets and indicators in the framework are applied to reduce existing inequalities and entrenched discrimination while also remaining feasible and implementable. Mustapha[517] argued that "while the geometric gap in educational attainment between the North and the South flowed directly from government policies; other inequalities also emerged, fuelled by differences in geography and natural economic endowments. The combined and cumulative effects of the educational and economic inequalities continue to bedevil Nigeria society to this day". It is imperative to note that equality and non-discrimination do not need instrumental justification because, as fundamental human rights, they are legally binding obligations.

7.6. Ensure Adequate Funding for Human Capital Development (SDGs 3 and 4)

Lewis opined that "there is no economic development without human development". The poor funding of both the education and health section in Nigeria has resulted in poor human capital development, which has led to the country's underdevelopment. With wide-reaching benefits for human well-being and dignity, the promise that education and health hold for sustainable development is enormous to address development challenges. The economic argument will be persuasive if the evidence on these indicators is insufficient to convince state actors. Investment in human capital reduces economic inequality and promotes economic growth, and increases individual earnings due to quality education. The financial capacity or investment required for implementing (SDGs 3 and 4) in Nigeria is enormous, and the dependence on donor agencies has not produced the desired results for various reasons. For the realisation of human capital development (SDGs 3 and 4) in Nigeria, the

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[517] Mustapha, A.R. (2006), "Ethnic Structure, Inequality and Government of the Public Sector in Nigeria"

availability of resources and their mobilisation is a critical factor that has to be considered due to the programmes' capital-intensive nature. Presently, the country is undergoing an economic recession due to her over-reliance on oil revenues currently dwindling. According to Udoma[518]'s public presentation the Hon Minister of Budget and National Planning states that "With an increase of 28 percent total retained revenue available for budget between 2016 and 2017, the country's estimated total budget size for fiscal year 2017 is N7, 298 Billion, which represent an increase of 20.4 percent from 2016 budget size with a budget fiscal deficit of N2,360 Billion. This represents an increase of 6.69 percent from the 2016 budget fiscal and about 2.18 percent of the GDP". To achieve realistic human capital development (SDGs 3 and 4) results, Nigeria will have to complete an estimate of financial investment required to address development challenges. The huge financial gap in the implementation of human capital development (SDGs 3 and 4) is already being anticipated due to integrating many SDGs related interventions in her National Development Policy.

Also, individuals' empowerment is an essential aspect of human capital development, which plays a significant role as consumers in Nigeria as a society. Research has shown that Nigeria has a lower average life expectancy, high maternal and child mortality, high preventable morbidity, mortality, and education output and learning outcomes. Therefore, the provision of health, education, and social protection are core to empowering the population to achieve sustainable development in North and South Nigeria.

Growth does not necessarily reduce poverty, provide food security. Thus, conscious and deliberate development strategies by African countries, particularly Nigeria, need to be specifically put in place. There is a need to address development challenges such as human capital development poverty, corruption, lop-sided income distribution, infrastructure issues,

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[518] See Senator Udoma Udo Udoma, Honourable Minister of Budget and National Planning public presentation 2017

lack of technological innovation, governance, and over-dependency on oil as issues in their own right. The development problem has occupied international organizations' attention, development workers, and scholars with an increased tempo in the last decade. Corruption has been at the centre of development in Africa and Nigeria, which impedes genuine and real development. During the implementation of the 1955-1960 development plans, the belief in human capital and its sustainability as a necessity for growth started in Nigeria. Today, human capital with the importance of knowledge in the economy has increasingly attracted both „academic and public interest". According to the World Bank Report (2015), a shortage of talents and skills needed for development could decisively hider the country's ability to address her development challenges. Education and health are two critical factors of inhuman capital development, and to enter into the international area, Nigeria needs to invest in human capital development. Therefore, adopting an approach is an essential first step towards addressing Nigeria's development challenges. A Human right based approach will ensure better access to health, education, food, clean water, and sanitation for everyone. Improving human capital development is an effective way to promote social mobility and address Nigeria's development challenges.

7.7. Ensure effective Judicial Performance

In upholding the rights to health, particularly women, girls, and children, and the right to education, the judiciary has a vital role to play by ensuring that the judiciary contributes to "influencing the understanding" of both education and health rights a "specific domestic context" in Nigeria. The courts" role is fundamental in enforcing human rights, particularly economic, social and cultural rights, through legal systems and judicial practices that vary across countries and regions. Development requires more than sound economic policies.

According to North and Thomas[519], by fairly and efficiently resolving disputes, courts provide no excludable benefit for the greater collective public that contributes to development,

The role of the courts is fundamental in the enforcement of human rights, particularly economic, social and cultural rights, through legal systems and judicial practices that vary across countries and regions. Interpreting legislation is a vital function of the judiciary in any area of law and not only in human rights. Judicial performance is measured based on the rate of clearance because the swift resolution of cases is a stated core value in the Nigerian legal system. The lack of good judicial performance in Nigeria is a challenge to using a human rights-based approach to address the country's development challenges, particularly human capital development. As discussed in chapter 4 of this thesis, the marginalized group, women, girls, and the Almajiris in the North as a right holder could seek redress where there is an excellent judicial perforce vis-à-vis access to justice. Delay in judicial performance could act as a challenge to achieving sustainable development goals, particularly in the North due to lack of access to justice, poor judicial performance, and legal pluralism. The final part of this thesis is the conclusion.

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[519] North, D. and Thomas, R. (1973), The Rise of the Western World: A New Economic History. Cambridge: Cambridge University Press.

CONCLUSION

This thesis has examined the relevance of human rights and human capital investment in implementing sustainable development goals SDG 3 and 4 in Nigeria and how the lack of these two concepts has led to the country's human capital development challenges. In the process, this thesis examined previous works of literature relevant to the study and identified gaps in knowledge vital to the contribution to knowledge. In terms of the contribution to knowledge, this thesis states that one the reasons we have differential development outcomes between the North and South Nigeria is inequality in human capital development/investment and human rights as identified as a gap in knowledge from literature point of view. Inequality exists between women, girls and the Almajiris in the North compared to their South counterparts. These marginalised groups constitute the largest population in the North, which represents the labour force, thereby affecting human capital development. This thesis therefore evaluates these development challenges both as courses and responses and the need for improvement due to the lack of human rights and human capital development in the North, suggesting how this can be addressed to ensure equality. The following are the summary of the gaps in the literature:

- Previous works of literature failed to examine or focus on inequality which lies at the heart of the development process. Most importantly, the need to adopt a human rights-based approach in addressing the systemic inequality between North and South Nigeria in terms of human capital development.

- Most of the literature examined on development challenges in Nigeria evaluated the linkages between human rights and development but failed to established or argued the need for an inclusive and participatory society to ensure policy coherence between the SDGs and the existing human rights framework.

- Most of the previous literature examined in this thesis adopted the Modernisation theory of the 1960s to address Nigeria's development challenges with limited successes. The Modernisation theory is not framed in the language of rights.

- Another significant difference between this study and previous literature is that the previous literature examined development challenges in economic growth by adopting different development approaches. These include a need-based approach or service delivery approach, capability approach, and market-based approach to address Nigeria's development challenges with limited successes.

- Most of the previous literatures evaluated also focused on underdevelopment and its impact of poverty eradication without paying attention to the relevance of human capital development SDGs 3 and 4.

In light of the preceding, this thesis adopts quantitative, inter-disciplinary databases and social-legal approaches to understanding the context behind Nigeria's developmental challenges. This thesis is also underpinned by the Right theory and the Enlightenment theory. This has methodological/theoretical implications in the sense that despite the laudable average global achievement of the MDGs. There is much to achieve through the SDGs to ensure all people of the world have sufficient access to resources to live a dignified life, with the assurance of their basic needs and human rights, according to Zakus[520]. The discourse on human rights became popular after adopting the Universal Declaration of Human Rights in 1948 and other subsequent rights treaties and ratified declarations. According to Ibhawoh[521], human rights discourse, however, is not a simple monolithic, progressive agenda, which facilitated transformative process; it is one that, in the African context, for example, also served to legitimise colonial activities. The SGDs now have given us laudable yet precarious

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[520] Zakus D, The Sustainable Development Goals as Human Rights. Available at www.researchgate.net/publication/332284647 Accessed 10 January 2021

[521] Ibhawoh B, Imperialism and Human Rights: Colonial Discourses of Rights and Liberties in African History, New York: SUNY Press 2008

and ambitious aims, and criteria with which to implement, assess, and measure progress. The implementation strategy of the SDGs within the framework of "leaving no one behind" will need to continue and more fully embrace a data revolution through a human rights-based approach to data collection, production, analysis and dissemination to clearly reveal the current state of disadvantage and vulnerability of many affected groups such as women, girls, and the Almajiris in the North that are usually left behind according to World Bank[522], 2018.

In Nigeria, achieving sustainable development goals between the North and South is a difficult one. The marginalised and the vulnerable such as women, girls, and the Almajiris in the North, continue to face socio-legal challenges such as the lack of accountability, lack of human rights-based participation and inclusion, poor governance and which hinders the realisation of the right to development. Nigeria's development challenges can be traced to poor human capital development. In other words, poor capital investment in education SDG 3 and health SDG4 is responsible for the inability to develop a strong and skilful workforce to achieve development outcomes, particularly in the North. The gap between North and South in terms of development is not static but is continually widening. The North was perceptibly characterised by poor human capital development, massive poverty, under-employment, decaying physical infrastructures, and structural disarticulation after decades of independence given the country's enormous resources endowment.[523] According Siobhan[524], "a legal approach offers a clear rationale for the relevance of human rights to development, which is simply that it binds as a matter of law and is therefore obligatory. A legal approach also offers a sound basis for the principle of do no harm, and a risk-based outlook. It offers a

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[522] World Bank, „The 2018 Atlas of Sustainable Development Goals: an all new visual guide to data and development. Available at www.worldbank.org/opendata/2018-atlas-sustainable-development-goals-new-visual-guide-data-and-development?CID=CCG_TT_climatechange_EN_EXT Accessed 13 January 2021

[523] Obadan, M.I. (2001), "Poverty Reduction in Nigeria: The Way Forward." CBN Economic and Financial Review,39(4), December.

[524] Siobhan, M. (2009)," Human Rights and Development: A Comment on Challenges and Opportunities from a Legal Perspective.

concrete baseline for ensuring the respect of human rights and preventing any lowering of the standard of human rights enjoyment by development activities".

Some scholars argued that a more transparent and accountable government would increase the growth process and subsequently address the endless or constant challenge of burgeoning poverty and under-development due to poor human capital investment, mostly in the northern part of Nigeria. Public policies guided by human rights principles and norms designed to ensure the enjoyment of human rights by all people are required for an effective national human rights promotion and protection systems. As it was highlighted in the Human Development Report (2000), "the success of the application of human rights-based development strategies "will primarily rest on the recognition and respect for the primacy of universal human rights in the State norms, institutions, legal frameworks and enabling economic, political and policy environment"[525]. In other words, relevant steps in addressing development challenges have to be taken through advocacy that is "stakeholder in the broadest sense of the word". The need for institutional development such as "the creation of sustainable institutional "systems, implementation by way of the "application of human rights in law and reality", monitoring in terms of "effective systems for societal monitoring of human rights enforcement", redress in terms of "transparent mechanism to correct human rights violations" and specific measures by way of affirmative action for addressing structural issues that perpetuate inequality and discrimination[526]".

Further, rights-based development and the reaffirmation of all states' responsibility to respect, protect and promote human rights, engendered in the Goals of the 2030 Agenda for Sustainable Development (SDGs), provide momentum, re-invigorate debate and build on existing standards. The universally respected credo "leave no-one behind" offers an

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[525] See Armenia (2000),"Human rights and human development" Available at www.undp.am/publications/nhdr00 Accessed March 2020.
[526] See UNDP (2005),"Human Rights in UNDP" available at www.undp.org Accessed 10 January 2020.

opportunity to explore both the interpretation and implementation of Economic, Social and Cultural Rights (ECSR) as well as Civil and Political Rights (CPR) and the right to development as a means to strengthen universal respect for human rights and combat inequalities and discrimination. Human rights lie at the core of the 2030 Agenda.

The Agenda envisages a world of universal respect for human rights and human dignity, the rule of law, justice, equality, and non-discrimination; of respect for race, sex, ethnicity, and cultural diversity; and of equal opportunity permitting the full realisation of human potential and contributing to shared prosperity; a just, equitable, tolerant, open and socially inclusive world in which the needs of the most vulnerable are met. Since the SDGs Programme needs everyone's input to be realised, it is therefore essential that a strategy of creating broader public knowledge about the Programme needs to be in place. The network and reach, that is to say, the number of the people, segments of society or regions that should be reached by the agencies of the implementation of the Programme is vital to its success. Accordingly, for Nigeria and Africa to achieve radical and transformative implementation of the SDGs 3 and 4, there must be a paradigm shift in the approach of communicating the SDGs to Nigerians to get them to accept and be involved in the Programme. It is common knowledge within the development circle that development involves a physical reality and a state of mind. Through the development process, the interactions between social, economic, and institutional processes must be continually sustained to meet up with increasing future demands regarding population growth and continuous use of natural, human and material resources.

Security is vital for sustainable development in Nigeria because it provides an integrated response to the complex societal, economic, and governance challenges that directly or disproportionately affect the people. The activities of blowing up the pipeline due to the conflict between the government and the Ijaw youth resulted in most state governments' inability to workers' salaries and other developmental projects on hold, let alone sustain them.

It is evident from the above statistical data in chapter 4 of this thesis that conflict and violent extremism, particularly in the North, impedes sustainable development. Religious fundamentalism is abhorrent because it abuses religion, whether arising from Christianity, Islam, or African traditional religions. Therefore, religion needs to be integrated into SDGs' development agenda to address Nigeria's development challenges. To achieve realistic human capital development (SDGs 3 and 4), Nigeria will have to complete an estimate of financial investment required to address development challenges. The huge financial gap in the implementation of human capital development (SDGs 3 and 4) is already being anticipated due to integrating many SDGs related interventions in her National Development Policy. Boko Haram deliberately targeted most health facilities in the North-East which was later closed down in mid-2014. Humanitarian needs will increase as security challenges continue to be on the increase. As the humanitarian crisis level continues to be on the rise due to security challenges, people in need of protection and assistance will almost double vis-a-vis the humanitarian community due to security and capacity for effective response. In light of the foregoing, a human rights-based approach to development will function to address humanitarian and human capital investment challenges under one coherent framework to ensure that the (SDGs) 3 and 4 are met. This will put Nigeria's development objectives in both the North and South at the forefront and ensure that development gains are realised. Also the corruption perception index for Nigeria between 1996 and 2015 shows that institutional corruption is responsible for weak public sector institutions or organisations in the country. The public sector is highly susceptible to corruption due to the enormous amount of resources involved; therefore, strengthening the public sector is essential in addressing development challenges such as corruption and poverty for sustainable development. It involves an effective institutional and legal framework.

Further, the Abacha loot was primarily set aside for addressing development challenges such as poverty, health, and education. However, as a result of the security challenges in the North-East, US\$300 Million was diverted to the National Security Adviser (NSA) to fight the Boko Haram insurgency in the North-East. Weak Public Sector in Nigeria leads to widespread poverty (SDG1). There is a direct consequence on the citizens' wellbeing where public funds that would be used to provide basic social amenities such as education, healthcare, good drinking water, roads, food, and security are diverted. According to Sach, the most often reported challenges regarding the implementation of MDGs are the non-availability and reliability of data, which subsequently hinders the interpretation of progress reports. To determine the outcome of any intervention requires quality data availability, allowing for a practical assessment. The use of technology is vital in gathering and analysis of data on a large scale. This is necessary to determine the trends and help give an insight into peradventure there is a shift in the agreed objective, allowing for adjustment to be made. In addition, measuring and evaluating the progress being made in attaining the Sustainable Development Goals (SDGs 3 and 4) in Nigeria required measuring Key Performance Indicators (KPIs). Presently, this is yet to be defined. The task of monitoring and evaluating the Key Performance Indicators (KPIs) used to determine the level of progress cannot be underestimated because it requires the availability of disaggregated, comprehensive and up-to-date, and reliable data to measure them. Accelerating development that is "economically sound, socially inclusive and environmentally" sustainable is a defining challenge facing Nigeria as a nation-state and the world at large. In light of the preceding, implementing the substantive goals SDG 3 and 4, otherwise known as Human Development and their Indicators (HDIs), will require new approaches that will embrace all the key features of (HRBAs).

The notion that all human beings are equal and therefore deserve to be treated equally has a powerful, intuitive appeal. It has one of the Enlightenment's central ideals and at the heart of

liberal theories of the state maxim of equality requires that equals be treated equally; the prohibition of discrimination precludes differential treatment on unreasonable grounds. In addressing development challenges in Nigeria, there is a need to actively and meaningfully engage rights-holders. Having laws that conform to human rights standards is one thing, and implementing them is another. In other words, if power, money, and influence play a more significant role and if there is a lack of control of and redress for the less privilege in the country and extensive abuse of power, instances of corruption. Growth does not necessarily reduce poverty, provide food security. Thus, conscious and premeditated development strategies by African countries, particularly Nigeria, should be specifically set aside to address development challenges such as human capital development poverty, corruption, lope sided income distribution, infrastructure issues, lack of technological innovation, governance, and over-dependency on oil as issues in their own right. These strategies need to address two critical needs: first, making the poor more productive, and second, providing assets to the poor.

Further, earlier policies aimed at reducing poverty in Nigeria tended to favour the urban elite at the expense of the rural poor and men at women's expense (World Bank, 2015). Therefore, adopting an approach is an essential first step towards addressing Nigeria's development challenges. Improving human capital development is an effective way to promote social mobility and address Nigeria's development challenges. According to Conceicao[527], the Director of the Human Development UNDP, in Nigeria, particularly in the North, the decline in the quality of education and health has across the strata has become a national disgrace. In addressing Nigeria's development challenges, the country needs to invest in education and health because the quality of a nation's development depends on its workforce quality. The amount of budget allocated for education despite its importance in human capital

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[527] See Conceicao.P. (2019)"Human Development Report to Focus on Inequality" UNDP report. Available at www.hdr.undp.org/en/content/2019-human-development-report Accessed 11 August 2019.

development is insignificant compared to other countries in Africa, such as South Africa. Life expectancy is as low as 51 that the citizens are poor, living on 1.25 US Dollar a day. As a result of poor infrastructure operating industries, it can be very expensive, making it one of the costliest countries to operate in. Nigeria depends mostly on importation, and unemployment is high. Male enrolment in Nigeria is higher than the female based on the Gender Disparity Index (GDI). Investment in education and social services also contribute to growth over the long term through indirect effects (Baldacci et al[528]; Hanushek[529] and Woessmann; Johnes[530]; Psachropoulos[531]).

The World Bank, the United Nations, and other prominent players in the international development community accept the proposition that social spending makes citizens and other countries they live in more productive. Evidence from Nigeria supports these findings, showing that Federal investment in primary school education improves workforce quality and has indirect benefits such as enabling women to delay marriage and have fewer children (Osili[532]). The incoming speaker[533] of the House told a group of bankers that the government "should begin to make massive investment in human capital" because education would help insulate the nation from the pain of globalisation. Access to education has been a cornerstone of development policy since independence, and the federal government has played a significant role. The public goods literature recasts an educated population as a public policy outcome by considering education as a human capital investment with broad national

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[528]Baldacci, Emanuele, Benedict Clements, Sanjeev Gupta, and Quang Cui. (2008), "Social Spending, Human Capital and Growth in Developing Countries" World Development no.36 (8):1317-1341.
[529]Hanushek.E.A., and Ludger.W. (2007), "The Role of Education Quality for Economic Growth" SSRN eLibrary.
[530]Johnes.G. (2006)," Education and Economic Growth" SSRN eLibrary.
[531]Psacharopoulos.G. (2006), "The Value of Investment in Education: Theory, Evidence, and Policy". Journal of Education Finance No. 32(2):113-136.
[532]Osili.U.O. (2008)," The Impact of Universal Primary Education on Socio-Economic Outcomes: A Nigerian Experiment." In Economic Policy Options for a Prosperous Nigeria, edited by Paul Collier, Chukwuma Soludo and Catherine Pattillo, 373-396, New York: Palgrave Macmillan
[533]Ghali Umar Na"Abba, "Economic Property as Foundation for Sustainable Democracy", Speech in Lagos, February 27, 2002.

benefits, similar to other non-excludable goods. The budget allocated for the education variable is also useful since federal spending on education could impact student/teacher ratios by enabling governments to hire more teachers. Besides, in Nigeria, available data reveals a gap in gender education, particularly in the Northeast, with some of the country's lowest literacy rates. The human capital index continues to face massive developmental challenges, particularly in the North, which includes the need to reduce Nigeria's dependency on oil and address the lack of infrastructure and governance issues. In a bid to correct the gap in girls' education in the North, former CBN governor and currently the Emir of Kano, Sanusi Lamido Sanusi, advocated the need to ban early child marriage and to convert mosques to schools. Boko Haram kidnapping an estimated 276 schoolgirls in April testified to the magnitude of risks girls and young women bear when they attend schools in the North compared to the South. According to Bentham, "all inequality that has no special utility to justify it is injustice." This indicates that inequality has been with man from time immemorial, and it is equally an unwholesome phenomenon in all its ramifications. In light of the Nigeria Constitution and other international human rights treaties, it is characteristically clear that inequality is a critical and ubiquitous phenomenon in addressing Nigeria's development challenges.

In the light of the foregoing, covering a whole host of rights relating to health, education, housing, water and sanitation, administration of justice, and political participation. For Nigeria to address her development challenges, a human rights-based approach must be tailored towards addressing discrimination, equality, vulnerable groups, particularly women, girls, minorities, indigenous peoples, and the internally displaced person. In a bid to achieve development outcomes in Nigeria, applying the human rights-based approach requires a high degree of participation that involves communities, indigenous people's minorities, civil society, and women and girls. The approach must ensure that development policies,

decisions, and initiatives must not reinforce the existing North and South divide, power imbalance between men and women, workers, and employers whilst seeking to empower local participation. To address development challenges in Nigeria, it necessary to ensure the availability of the rights to health in Nigeria. Adequate health and education resources need to be provided for use by those in need by the government and other relevant stakeholders who make the decision in both education and health, the two major pillars of human capital development. It is important to note that access significantly impacts the utilisation of all forms of healthcare services and differential health outcomes of users. Nigeria and other African countries lack better access to quality education and health when compared to developed countries of the world. According to Shah,[534] due to political instability and concerted effort on the government and relevant stakeholders in the health sector, healthcare systems in Africa are fragmented, lacking resources, information, personnel, continuity, and sustainability. Many primary health care facilities in Africa lack well-trained manpower and decent quality, and as a result of these challenges, countries in Africa continue to experience the burden of diseases, maternal mortality, and infant mortality, particularly childbirth-related issues of which 800 women die daily of which 99 percent are from third world countries according to the World Health Organisation (WHO, 2017)[535].

Participation ensures increases ownership based on policies and programmes tailored to their needs. A critical component of the participatory process is information sharing. If it can easily be accessible, participation can be regarded as meaningful and accessible in different languages, religious and cultural, and cultural backgrounds. For the citizen to maximise their potential, the principles of participation and inclusion must be encouraged. This, in turn, provides opportunity and a supportive environment that enables the citizen to develop their

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[534]Shah. A. (2011)" Health Care Around the World" Global Issues.
[535] See World Health Organisation (2017) Children: reducing mortality. Available at www.who.int/mediacentre/factsheets/fs178/en Accessed 01October 2019.

full potentials and creativity, which helps Nigeria address her human capital development challenges. Participation provides the opportunity for the rights holder and ensures a legal framework in case of a breach of rights by the duty-bearer. For example, women, girls, and boys have different identities. Each of these should be respected by investing in human capital to address Nigeria's development challenges, particularly in the North. Legality ensures that government as duty-bearer must invest in education and health as domesticated in Nigeria through the ratification and enforcement act of the ACHPR. Accountability from a human rights-based approach provides for value-added as compared to traditional development approaches. In terms of decision-making, actions, or omissions, Nigeria as a nation-state must be transparent and put a redress mechanism in place to address human capital development/investment challenges.

In Nigeria, weak accountability presents a significant barrier to addressing human capital. It is evident that various development approaches adopted in the past, such as the capability approach, needs-based approach to education, to mention a few, have failed to yield the required success. However, an HRBA will help address Nigeria's poor human capital development. The impact of education in addressing poor human capital development in Nigeria cannot be underscored. In other words, education provides an opportunity for individuals to translate their knowledge to unimaginable growth, which aid in poor human capital development, particularly in the North. Human capital development through societies and human history has been vital, both as a means for the individual and society to develop and an end in itself. Education and health have long been recognised in various "global or international treaties, regional and national legal instruments". The need to ensure gender equality is essential if Nigeria is to address her human capital development challenges. Addressing Nigeria's development challenges to implement the sustainable development goals (SDGs) requires quality education and good health and well-being, which is a crucial

tool that cannot be underestimated. It may interest us to know that one out of every four of the 80 percent lives in Nigeria. In the North, girls' access to primary education has remained low compared to the South[536]. The report from Gender Equality Index suggests that out of the 134 countries Nigeria ranks in 118 positions. In other words, for Nigeria to achieve Sustainable Development Goals, the government would have to put all necessary machinery in place by investing in quality education[537]. Quotas systems are cognate policies to diffuse ethnic tension and promote national integration and development. Various commentators have argued in favour and against the system. For instance, Adenle[538] states that in the South, the number of space for applicants into secondary is 85 percent while in the North, the numbers is 5 percent.

Applying a human rights-based approach in achieving outcomes involves empowering stakeholders with clear accountability and ensuring that those who are most vulnerable, such as women, girls, and the Almajiris in the North, are considering and that they are not discriminated against. As discussed in chapter three of this thesis, a human rights-based approach empowers all key stakeholders, who are policymakers, women, boys, and girls, are empowered to participate in achieving the realisation of rights. It also considers international and the wider national human rights framework provides clear accountability and ensures that the most vulnerable, in other words, the marginalised or excluded people, are not discriminated against in a bid to address poor human capital development in Nigeria. Further, institutional development involves the creation of sustainable institutional systems. In order words, designing appropriate management institutions will focus on the strength of institutions, from which entitlement may be derived from the duty-bearer by the rights-holders. The marginalised group, such women, girls and the Almajiris in the North could

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[536] Ibid
[537] Ekechukwu, L.E. (2018)" Equality of Educational Opportunities in Nigeria.
[538] Adenle, S.O. and Olabiyi, O.S. (2005)," Funding Technical Education for Sustainable Youth Empowerment". Nigeria Association of Teachers of Technology (NATT) Book of Proceedings. 302-305.

benefit from institutional development in a bid to address poor human capital development facing the region in order to achieve sustainable development goals or 2030 development agenda. The 1999 constitution as amended arguably attracted more controversy than any other chapter of the Constitution in terms of enforcement or justiciability. However, the (Ratification and Enforcement) Act ensures that the vulnerable or marginalised group in the South, and in the North particularly women, girls, and the Almajiris could seek redress to ensure that their voices are heard. It is evident that justice is regarded as an indispensable companion of truth, and this is particularly important because people who have been marginalised, for example, women, girls and the Almajiris in the North in terms of poor human capital development, could seek redress as right-holders from the government which is the duty-bearer in a bid to achieve development outcomes. There is a need for affirmative action because it provides an equal playing field between the North and South particularly, women, girls, and the Almajiris that have been marginalised. Addressing Nigeria's development challenges is overwhelming. Development in Nigeria is curtailed due to several indices, which could act as barriers to the use of the human rights-based approach. Addressing development challenges depends on the country's transformation vis-à-vis achieving positive development outcomes. A piece of legislation will face implementation challenges due to a lack of enforcement and selecting the right enforcement authority and mechanism to achieve development outcomes. Therefore, for practical implementation in addressing Nigeria's challenges, there is a need for effective implementation and enforcement. According to Lincoln, "law without enforcement is just good advice". The widening economic gap between North and South Nigeria is a direct consequence of globalisation, particularly in human capital development. Women, girls, and the Almajiris in the North are the major distinct groups that globalization's impact has mostly felt.

Addressing Nigeria's development challenges requires good governance, which is regulative and jurisdictional. The concepts of governance differ significantly within institutions and amongst scholars; however, they all focus on the process of governing, which involves either state or an institution. Good governance also applies more important requirements in the decision-making process and public policy formulation. Poor governance denies civil society the opportunity to play an active role in setting priorities and meeting the vulnerable people's needs and provides the opportunity to expand their choices in the way they live, promote freedom, eradicate poverty, discrimination, and women's advancement. Addressing Nigeria's development challenges requires effective judicial performance. Development requires more than just sound economic policies. According to North and Thomas, by fairly and efficiently resolving disputes, courts provide no excludable benefit for the greater collective public that contributes to development. The judiciary has an important role in ensuring the judiciary contributes to "influencing the understanding" of both education and health rights in a "specific domestic context" in Nigeria.

The lack of good judicial performance in Nigeria is a challenge to using a human rights-based approach to address the country's development challenges, particularly human capital development. As discussed in chapter 4 of this thesis, the marginalized group, women, girls, and the Almajiris in the North as a right holder could seek redress where there is a good judicial perforce vis-à-vis access to justice. Delay in judicial performance could act as a challenge to achieving sustainable development goals, particularly in the North due to lack of access to justice, poor judicial performance, and legal pluralism. The major pillar of the sustainable development goal is to leave no one behind. To achieve the 2030 development agenda in Nigeria, the marginalised group, more emphasis, and investment in human capital should be directed toward women girls and the Almajiris in the North. Legal pluralism could act as a challenge to the use of a human rights-based approach to addressing Nigeria

development challenges due to her ethnic composition[539], unclear relationship between customary laws with state law, and "existence" of religious laws[540]. The religious law is also known as the sharia law and seen as an entire system of guidelines and rules by Muslims which encompasses "criminal law, personal status law, cultural, social and many aspects of religious law".

Since 2000, Sharia (Islamic law) has been in force in the North, and its application has so far raised several concerns. In Nigeria, Sharia law's application violates Nigeria's international obligations and fails to conform to international standards of fairness, and violates individual rights to a fair hearing, thereby breaching the provision within the Nigeria constitution. Further, there are provisions within Sharia law that discriminate against women, girls, and the Almajiris, both in law and in practice and other aspects of human rights violations in terms of economic, social, and cultural rights. In a bid to adopt the use of the human rights-based approach in addressing Nigeria's development challenges concerning Sharia law, the federal and state government need to re-examine the application of Sharia. This can be done by ensuring that the law does not violate human rights to education and health. This would mean amending aspects of the Sharia legislation and rectifying those provisions that constitute inherent violations of fundamental human rights.

During a period of underdevelopment, nations' ability to anticipate, resilient, and take effective measures in addressing development challenges is a useful tool that must be considered. The responsibility of fostering development globally is saddle upon institutions. However, the significant difficulty is being able to strengthen institutional capacity. The lack of institutional capacity is a challenge, particularly in terms of human capital development,

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[539] See Otite, O. (1990)," Ethnic Pluralism and Ethnicity in Nigeria" 35-6
[540] Nwauche, E.S. (2010)," The Challenges of the integration and interaction of customary and the received English common law in Nigeria and Ghana. 25 Tulane European & Civil Law Forum 37-40.

because critics and supporters of development assistance argued that development failures result from weak institutions.

To achieve the sustainable development goal or 2030 development agenda, there is a need for Nigeria to address the problem of institutional capacity to create an opportunity for the marginalised or vulnerable group such as women, girls, and the Almajiris in the North to achieve development outcomes as those in South Nigeria. Further, Individuals and communities are empowered due to the knowledge of rights and legal issues to participate in democratic settings, "gain access to public services," and "their fundamental rights". Human rights education enables adults to control their lives by re-engaging them in life-long education. The lack of human rights-based participation hinders human rights in addressing Nigeria's development challenges, particularly human capital development. The lack of participatory process hinders development actors from understanding the vulnerable group or the marginalised women, girls, and the Almajiris in the North compared to the South. To achieve the sustainable development goals in terms of human capital development, that is, health SDG 3 and SDG 4 education, Nigeria requires a highly participatory and inclusive approach to formulate the goals to address her human capital development challenges, particularly in the North. Further, any nation that desires guaranteed economic vitality and self-sufficiency, high-quality human development indices, social well-being, and qualitative life for its citizens must of necessity place a high premium on human capital development. Underachievement in human capital development results in the inability of the nation to adequately access and effectively appropriates its human and other resources to meet national objects according to Anya[541].

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[541] Anya, O.A. (2011)," Nigeria: The Human Capital Challenges" cited in Ikokwu, C.C. (2011)," Half a Century Progress Challenges": First edition: Nigeria.

Poor human capital development significantly impedes the optimisation of available potentials and opportunities to improve society and enhance citizens' quality of life. It is believed that a model of governance that encourages transparency and accountability would accelerate the growth process and bridge the gap between North and South in terms of development by addressing the persistent human capital development challenges, which is responsible for the level of burgeoning poverty in the country, particularly in the North. The need to do more is imperative. Enhancing gender equality and empowering women is critical to achieving a broad range of the sustainable development goals proposed in the present report. More educated mothers have the skills to compete for high-skilled and well-paid jobs and, therefore, be better positioned to feed, care for, and educate their children. Empowering women and girls through education also allow them to be involved in decisions at all levels and influence resource allocation in a gender-sensitive manner. To accelerate the enhancement of gender equity and women's empowerment, policy changes should be directed at tackling discrimination against girls and women in educational systems, encouraging greater participation of women in productive and remunerative economic activities, and increasing the voice of women in making decisions at all levels of society. Economic and social policies that respond better to men and women's needs – including affirmative action strategies, the reform of customary laws that discriminate against women and girls, and more human and financial resources to enforce and carry out such laws – are crucial for meeting this goal. Further, in recent years an increasing emphasis has been placed on human rights-based approaches to development. The importance of a human rights-based approach brought about a shift from needs-based or service-delivery approaches that have failed to "substantially" reduce poverty and address development challenges in Nigeria and Africa. One fundamental limitation of both the needs-based or service-delivery approaches has been that the authority who undertakes these approaches may not be sensitive to the needs of the

vulnerable or poor in Nigeria. A human rights-based approach is relevant to achieving SDGs 3 and 4 in Nigeria because the right to equality and non-discrimination gives concrete expression to the basic idea that the whole international human rights system is founded. This includes that all human beings, regardless of their status or membership of a particular group, are entitled to a set of rights. The relevance of a human rights-based approach in achieving human capital development (SDG 3 and 4) in Nigeria requires safeguards to be included in development instruments to 'protect the rights and well-being of marginalised groups. While seeking to empower local participants, all development decisions, policies, and initiatives, including those concerning (SGD3) healthcare and (SDG 4) education are also expressly required to guard against reinforcing power imbalances or contribute to creating new ones. In addressing development challenges in Nigeria, there is a need to actively and meaningfully engage rights-holders. In other words, a human rights-based approach is relevant in the implementation of SDG 3, which is good health and well-being; an older person who is a right-holder should participate in all decisions about the care and support they are receiving. From the perspective of ownership and sustainability, participation is not merely something desirable but rather a right with profound consequences for designing and implementing development activities. A human rights-based approach to education and learning helps analyse why girls, boys, women, and men are not accessing education or reaching learning targets, particularly in the North compared to the South. The need to place human rights and accountability at the foundation of the post-2015 agenda is essential in implementing the Sustainable Development Goals (SDGs 3 and 4) in Nigeria. In the context of negotiations towards a post-2015 development agenda, human rights can inform our understanding of accountability by strengthening its constituent elements such as answerability, responsibility, and enforceability in relation to new global development goals as agreed at the 2012 United Nations Conference on Sustainable Development. Accountability mechanism, in particular,

should take more account of human rights standards, human rights methods of monitoring and evaluation, redress and sanction where needed.

A human rights-based approach to development provides an opportunity for "marginalised and poorer groups" in Nigeria, particularly in the North, by promoting accountability and ensuring that the "marginalised and poorer are in a position to "enforce their rights" and "seek redress" when their rights are violated. The lack of development progress in the North constitutes a violation of human rights standards. Those affected have the opportunity to present their claim before national and international human rights mechanisms. In addressing the development challenges in Nigeria, the country needs to adopt a human rights-based approach to development that will focus on improving the rule of law at the level of daily life in North and South Nigeria. It is important to note that having laws and policy that conforms to human rights standard is one thing and implementing it is another. In other words, if power, money, and influence play a greater role and if there are lack of control of and redress for the less privileged in the country and enormous abuses of power, instances of corruption. Adopting a human rights-based approach to development will ensure that Nigeria as a State complies with the legal norms and standards enshrined in the human rights instrument. This ensures that states and other duty-bearers are answerable for human rights observance.

When adopting a human rights-based approach to development in implementing the Sustainable Development Goals (SDGs 3 and 4) in Nigeria, activism and advocacy are two essential components that need to be considered. Activism and advocacy are an important component of a human rights-based approach to development because it follows the principles of participation and inclusion central to implementing the Sustainable Development Goals in Nigeria. According to Molyneux and Lazar[542], for participation and

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[542] See Molyneux. M. and Lazar.S. (2003)" Doing the Rights Thing-Rights-based Development and Latin American NGOs. London: ITDG Publishing. 27". See also Sano. H.O. (2000)" Development and Human

inclusion to be effective "it is important to strengthen the capacity for autonomous action" this will help address Nigeria"s development challenges, particularly in health, education, and the empowerment of women and girls. Adopting a human rights-based approach to development in addressing Nigeria development challenges envisage a world that would be "just equitable, tolerant, open and socially inclusive that addresses the needs of the most vulnerable or the poorest are met" a world in which every woman and girl enjoy full gender equality and all legal. Social and economic barriers to their empowerment have been removed. The empowerment of individuals is an essential aspect of human capital development, which plays a significant role as consumers in Nigeria as a society. Research has shown that Nigeria has a lower average life expectancy, high maternal and child mortality, high preventable morbidity, mortality, and education output and learning outcomes. Therefore, the provision of health, education, and social protection are core to empowering the population to achieve sustainable development in North and South Nigeria. Thus, conscious and premeditated development strategies by African countries, particularly Nigeria, need to be specifically put in place to address development challenges such as human capital development, poverty, corruption, lope sided income distribution, infrastructure issues, lack of technological innovation, governance, and over-dependency on oil as issues in their own right.

A Human Right-Based Approach to development can also be applied to achieve development outcomes by examining the benefit of the approach in terms of both moral consensus and legal obligation. It sets the achievement of human rights as an objective of development. The approach acts as a scaffolding of development policy and invokes the international apparatus of human rights accountability to aid development outcomes in Nigeria. The approach entails an array of key elements such as non-discrimination, empowerment, linkage to rights,

Rights: The Necessary, but partial Integration of Human Rights and Development", Human Rights Quarterly 22: 734-75, 749.

attention to vulnerable groups, and accountability. For Nigeria to address her development challenges, a human rights-based approach must be tailored towards addressing discrimination, equality, vulnerable groups, particularly women, girls, minorities, indigenous peoples, and the internally displaced person. In a bid to achieve development outcomes in Nigeria, adopting the human rights-based approach requires a high degree of participation that involves communities, indigenous peoples, minorities, civil society, women, and girls. The approach must ensure that development policies, decisions, and initiatives must not reinforce the existing North and South divide, power imbalance between men and women, workers, and employers whilst seeking to empower local participations.

To further address Nigeria's human capital development challenges, all aspects of the right to health and education include a list of essential elements that applies to it, including the underlying determinants must be put in place. To ensure the availability of the rights to health in Nigeria, the government needs to provide functioning and good public health and health care facilities in North and South and ensure that these facilities are sufficient, including (1) good and affordable drinking water, and disposable sanitation facilities. (2) Hospitals, clinics, and other health-related facilities (3) medical personal that are adequately trained in various health-related fields (4) the availability of essential drugs for the treatment of various identified diseases. Access to health care varies globally as a result of the income distribution. These are (1) Non-discrimination which allows for free accessibility of health care facilities in North and South Nigeria. Goods and services are accessible to all, particularly marginalised and vulnerable groups in the North. Language, sex, religion, race, colour, political, birth, physical, health status, including HIV/AIDS, sexual orientation, and civil, political, social, or other status should not be used as bases for discrimination in accessing the right to health in Nigeria. (2) Physical accessibility involves providing health care facilities and the underlying determinant of health within the geographical area that is safe for all

sections of the population, particularly in the North where there are no good health care facilities compared to South Nigeria. (3) Economic accessibility (affordability) ensures that healthcare facilities are affordable for all in North and South Nigeria. It must ensure equality in providing health care services and facilities, particularly the underlying determinants of health that must be affordable and not create a burden for the poor disproportionately. (4) Information accessibility ensures that information is accessible and includes the rights to seek, receive and impart knowledge and ideas on health issues, whilst ensuring that the person's right is not compromised.

To be acceptable, health care facilities should be respectful of medical ethics and culturally appropriate by ensuring gender sensitivity and life cycle requirements in North and South Nigeria to address her human capital development challenges. As the fourth essential element of the right to health, quality ensures the availability of good health care facilities that are scientifically and medically appropriate and of good quality in North and South Nigeria. The provision of safe and potable drinking water and adequate sanitation, skilled medical personnel, scientifically approved drugs, and hospital equipment are part of the quality element of the right to health. Realising the right to health and other health-related human rights is achievable by adopting a human rights-based approach to address Nigeria's human capital development challenges. Human rights principles and standards will aid in making health policy that aims to develop the capacity of duty-bearers to meet their obligations and empower rights-holders to effectively claim their health rights. At the core of a Human Rights-Based Approach (HRBA) is the elimination of all forms of discrimination. Achieving gender equality is a key strategy in gender mainstreaming and eliminating all forms of discrimination based on sex. Goal, process and outcome are the core aspects of the Human Rights-Based Approach building on the United Nations (UN) common understanding. Also, securing an enabling environment for development requires the principle of accountability.

Accountability from a human rights-based approach provides value-added compared to traditional development approaches. In terms of the decision-making process, actions, or omissions, Nigeria as a nation-state must be transparent and put a redress mechanism in place to address human capital development/investment challenges. In Nigeria, there is a strong dimension of "horizontal inequality" in terms of development outcomes resulting from poor human capital development between the North and South. To redress inequalities in treatment as well as outcomes, affirmative action involves human rights treaties adopting "special measures" Investment in human capital development, such as education and health, is of particular importance, and adequate policy needs to be put in place to ensure equality of access. There is a need for affirmative action because it provides an equal playing field between the North and South particularly, women, girls, and the Almajiris that have been marginalised.

Addressing Nigeria's development challenges are overwhelming. Development in Nigeria is curtailed as a result of several indices, which could act as barriers to the use of a human rights-based approach in addressing development challenges in Nigeria. The following are some of the barriers to using a Human Rights-Based Approach to development in Nigeria that needs to be addressed. Ensure effective implementation and enforcement of law and policies. From an international law perspective, Nigeria must respect, protect and fulfil her citizen's rights to education and health, the two primary components of human capital development as a ratifying state by ensuring the availability, accessibility, affordability, acceptability, and quality and ensuring that it is in accordance with the broader principles and standards of human rights law. As discussed in chapter four (4) of this thesis, the citizens or their representatives as the rights holders can seek redress locally if the government of the Federal Republic of Nigeria as the duty bearer violates these rights through a "national human rights

enforcement system", which may include the "national human rights commission and human rights legislation".

Globalisation and its consequence on the use of a human rights-based approach can be seen based on the limitation it's placed on the enjoyment of a multidimensional human right. The widening economic gap between North and South Nigeria is a direct consequence of globalisation, particularly in human capital development. Whilst it is important to note that globalisation offers great "opportunities", the full enjoyment of all human rights in Nigeria is affected because its "benefits are unevenly" shared and its "costs unevenly "distributed. The barrier to using a human rights-based approach should be addressed to enhance their benefit and mitigate their negative consequences on the marginalised group in North and South, particularly women, girls, and the Almajiris in the North. Ensure respect for all human rights. In other words, human rights of the citizens must be put into consideration in order to achieve sustainable development goals without any distinction as to race, sex, language or religion and such rights must be indivisible and interdependent[543]. There continues to be variation in how the Human Rights-Based Approach is understood and used over the last decade despite the development of the UN Common Understanding in relation to SDG 3 good health and well-being, particularly sexual and reproductive health and SDG 4 quality education[544].

The following would help address the challenges to using a human rights-based approach to development in Nigeria. Ensuring good governance also implies the need for more substantial requirements in the decision-making process and public policy formulation. The qualitative principles of good governance are active participation in public policy-making, the recognition of the rule of law and independent legislature, a fair judiciary system, institutional checks and balances through the separation of powers. From a human right-

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[543] See Article 6 (1) and 6 (2) of UNDP.
[544] See United Nations Development Group Report (2003)

based approach perspective, citizen participation is very vital for good governance to be achieved, arguably. Participation means that the voices of all men and women should be considered in the decision-making process. Participation should be organised and informed, either directly or through legitimate institutions representing their interest. Effective judicial performance is vital in upholding the rights to health, particularly of women, girls, and children, and the right to education. The judiciary has a vital role in ensuring that the judiciary contributes to "influencing the understanding" of both education and health rights in a "specific domestic context" in Nigeria. The courts" role is fundamental in enforcing human rights, particularly economic, social and cultural rights, through legal systems and judicial practices that vary across countries and regions. Ensure access to justice for all. One of the advantages of adopting human rights as a framework for development is that it protects the basic well-being of all persons, including those marginalised, vulnerable, or at a disadvantage or those that are not included in participating in the development process. An important capacity for most people is making claims and demanding accountability, especially when inequality in power is present. Ensure effective institutional capacity during a period of underdevelopment; nations' ability to anticipate, resilience, and take effective measures in addressing development challenges is an effective tool that must be taken into consideration. The responsibility of fostering development globally is saddle upon institutions. To achieve the sustainable development goal or 2030 development agenda, there is a need for Nigeria to address the problem of institutional capacity to create an opportunity for the marginalised or vulnerable group such as women, girls, and the Almajiris in the North to achieve development outcomes as those in South Nigeria.

This thesis also examines the need to ensure quality human rights education for all. The lack of human rights education is a challenge to the use of a human rights-based approach in addressing Nigeria's development challenges, particularly human capital development

because the marginalised or vulnerable people are not aware of their fundamental rights. As a result, their human rights and fundamental freedoms are denied due to inequality, discrimination, and deprivation, which placed restrictions on their ability to lead a life of dignity. To realise the sustainable development goals or 2030 development agenda, the marginalised people such as women, girls, and the Almajiris in the North who have been denied the chance to realise their worth and develop their potential should be addressed by ensuring participation and inclusion in the development process. In a bid to counter and prevent human rights violations and abuses of the marginalised group, there is a need to raise awareness of human rights through human rights education in the North because it fosters values that promote respect, inclusion, non-discrimination, participation, accountability, and equality between the North and South Nigeria. This thesis further addressed the issues of inequality and discrimination between the North and South in terms of human capital development, responsible for the country's development challenges. To repeal discriminatory provisions or address discriminatory practices by the government, there is a need for administrative or legislative reform and a change in resource allocation, education, and health measures between North and South Nigeria. To address fairly the social and economic needs of the marginalised, such as women, girls, and the Almajiris in the North, the sustainable development framework should be tailored towards achieving development outcomes by ensuring that targets and indicators in the framework are applied. This will help to reduce existing inequalities and entrenched discrimination while also remaining feasible and implementable. In addition, this thesis addressed the need for human rights-based participation in addressing Nigeria's development challenges. To achieve the sustainable development goals in terms of human capital development, that is, health SDG 3 and SDG 4 education, Nigeria requires a highly participatory and inclusive approach to formulate the goals to address her human capital development challenges, particularly in the North. This

thesis also addressed the need for monitoring and evaluation to address Nigeria's development challenges.

One of the fundamental approaches to promoting human rights is to monitor the extent of the fulfilment and violation of human rights. Duty bearers are placed under tremendous pressure to meet their obligation to respect, protect, and fulfill human rights due to collecting and disseminating data about unfulfilled rights and rights violations. The compliance of duty bearers with human rights standards can be strengthening by monitoring human rights. Monitoring 100 percent goals means focusing specifically on those who are left out. To emphasise issues of inequality and discrimination between women, girls, and the Almajiris in the North and their contemporary in the South, human rights indicators should go beyond average national performance. Striking a balance between economic and social dimensions of development, the SDGs seek to build and complete the "unfinished business of the MDGs "by ensuring the "realisation the rights" of all and achieving gender equality in all sectors. This, in turn, provides an opportunity to invest in human capital development and addresses Nigeria's development challenges.

In addition, Inequality and discrimination have led to an unprecedented level of poverty in Nigeria, as discussed in chapter three of this thesis, particularly in the North compared to the South. Poverty is a multidimensional and dynamic phenomenon. It has become a social problem in Nigeria, particularly in the North, as a result of poor human capital development. It is an unhappy consequence of unequal income distribution. To address Nigeria"s development challenges, the issue of inequality should be resolved, particularly the marginalised group in the North, by examining the need for administrative or legislative reform and a change in resources allocation or education and health measures in North and South Nigeria. Finally, for Nigeria to address her development challenges, the government needs to invest in human capital development. To ensure equality and non-discrimination of

the marginalised, such as women, girls, and the Almajiris in the North, it is important to adopt a human rights-based approach to achieve the sustainable development goals or the 2030 development agenda.

Conclusively, this study recommends, for policy makers in Nigeria that in addressing Nigeria's development challenges, there is a need to empower people to exercise their rights and agency to influence change by adopting a human rights-based approach that promotes social transformation. The state identifies and fulfils her citizen's responsibilities by adopting a human rights-based approach that strengthens democratic governance. Human capital development benefits would reach even the most disadvantaged people when human rights norms that provide frameworks for equality and non-discrimination are objectively applied. Nigerian states should partner with various in-country development actors to ensure straightforward institution building. Whenever an economy chooses the path of fast-paced industrial development anchored on value addition through processing industries and increased productivity, built on the knowledge, skills, and expertise of its citizens, the take-off of the economy as we have seen in China, South Korea, Taiwan, Malaysia, and Brazil seems guaranteed. In other words, the key to accelerated and sustainable development in the modern and globalised world in any nation is provided by the quality and quantity of its human capital. Therefore, Nigeria's present incapacity for modern development is founded on her failure to invest and develop her human resources, often referred to as human capital. In Nigeria, it is evidently clear that the failure of past administration to employ the political will and legal framework to combat poor human capital development as led to the atrocious causes and impact of poverty on development especially in the north, and this has become a pervasive phenomenon. A human rights policy commitment should include the following:

- Reflect the policy makers" commitment to respect human rights in line with national and international standards, such as the Human Rights Acts 1998, UN Guiding Principles, and the International Labour Organisation"s core conventions[545].

- Identify the human rights issues most relevant to the policymakers

- Commit to an on-going review of the policy and your human rights impacts

In other words, the Human Rights-Based Approach according to Banik[546] occasionally entails persuading states to ratify and then live up to international and regional human rights treaty commitments. It ensures equality, inclusiveness, active participation, and persuading citizens, particularly the marginalised, women girls and the Almajiris in the North, to think of themselves as rights-holders through civil society-based rhetoric and employing legal mobilisation in National court. According to DFID, the notion of rights as high priority goals is implicit in some of the legal documents underlying the rights approach to development. In other words, several international and bilateral development agencies have endorsed a human rights orientation in the provision of health care and education in developing countries.

The WHO Constitution, 1946, and the Declaration of Alma Ata, 1978, for instance, make paid particular attention to the "highest attainable standard of health", which implicitly acknowledges that many developing countries cannot provide comprehensive health care for all of their citizens. In other words, the WHO interprets the principle to mean that policymakers or government should put into place "policies and action plan which will lead to available and accessible health care for all in the shortest time[547]" Hopefully, addressing inequalities in SDGs 3 and 4 will be a strategy beyond reproach between the North and South

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[545] See The Human Rights Act 1998, as it applies to public authorities, or private organisations providing a public service. The aim of referencing international standards gives your organisation and relevant stakeholders a common reference point for definitions and approaches.

[546] Banik A, Poverty and Elusive Development: Universitetsforlaget

[547] UNESCO, United Nations Educational, Scientific, and Cultural Organisation, „World Education Report 2000: The Right to Education: Towards Education for All Throughout Life. Paris: Unesco.

Nigeria. To address Nigeria development challenges in terms of human capital development, through SDGs 3 and 4 and targets, almost all of which are indicative of current inequalities such as (health, gender, education and wealth distribution), the policy makers must ensure that they live up to their promise of leaving no one behind which is the major pillar of the 2030 development agenda.

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