

RULE OF LAW, PLANNING AND SUSTAINABLE DEVELOPMENT IN NIGERIA

Ola Aluko

Department of Urban & Regional Planning, University of Lagos, Akoka, Lagos

ABSTRACT

Nigeria is presently grappling with the challenges of building a sustainable democracy and consolidating it as a means of governance. It must build credible political institutions worthy of sustaining our cities and allow democratic values to deepen in such a way that the rule of law and due process will replace the arbitrariness and rule of force, which have taken deep roots in the country over decades of misrule. There is no doubt that the future of the country's fledging democracy and urban governance will depend largely on the extent to which both the leaders and the people are able to place themselves under a regime of human rights and disciplined governance, as opposed to the regime of lawlessness and graft, which had earned the country a prominent position among backward and corrupt nations of the world.

It is thus imperative to examine the importance and relevance of rule of law to planning, urban governance and how it can be sustained in Nigeria. The essence of this is that our urban environment, which consists of the towns and cities, is what physical planning is basically concerned with in relation to the changes within the physical environment and how it deals with future problems. The success of any good government is the joy of physical planning.

Keywords: Rule of Law; Good Governance; Sustainable Development; Planning

INTRODUCTION

The purpose of rule of law and urban governance initiative is to contribute to strengthening the political and administrative framework of a nation, in line with the principles of democracy, transparency, accountability, integrity, respect for human rights, and promotion of the rule of law. Good governance is an essential ingredient for any planned city and civilized environment.

Nigeria is presently grappling with the challenges of building a sustainable democracy and consolidating it as a means of governance. It must build credible, political institutions worthy of sustaining our cities and allowing democratic values to deepen in such a way that the rule of law and due process will replace the arbitrariness and rule of force, which have taken deep roots in the country over decades of misrule. There is no doubt that the future of the country's fledging democracy and urban governance will depend largely on the extent to which both the leaders and the people are able to place themselves under a regime of human rights and disciplined governance, as opposed to the regime of lawlessness and graft.

Efforts will be made to examine the importance and relevance of rule of law to urban governance in Nigeria. The essence of this is that our urban environment, which consists of the towns and cities, is what physical planning is concerned with in relation to the changes within the physical environment and how it deals with future problems. The success of any good government is the joy of physical planning because when people see how well a city is organized, with roads that

are well tarred, drainage in their proper places, adequate electricity and water supply, public places and roundabouts well designed and flowered, houses better upgraded, and general good aesthetic of the environment, then is that not the joy of good planning? Then the town planners will be pleased with the good condition of the environment. But that is basically when we have had a good government who values the city fortunes and have, therefore, decided to turn around the beauty, decay, wealth, and poverty of the city by tapping the nation's potentials to achieve good fortunes of beauty, wealth, success, and sustained life for the inhabitants. Planning plays a complementary role or supplements the actions of erudite leaders in political powers. We shall consider next the basic concepts relevant to the study.

CONCEPTUAL ISSUES

Rule of Law

We shall examine the concepts of rule of law, sustainable development, urban governance, and their relevance to planning. Rule of law means that everything must be done according to law. This means that all of the government departments and functionaries that deal with our cities must be able to justify their actions according to the law. The inability to justify this may turn our cities to lawless places full of violence and crimes.

Also, the meaning of rule of law is that the government should be conducted within a framework of recognized rules and principles which restrict discretionary power. That is, the Courts should prevent any abuse of discretionary power by any authority. Since democracy means a form of government in which the supreme power is vested in the people collectively and there is the absence of arbitrary power. It connotes a dynamic concept, which should be employed to safe-guard the development of our cities and advance the will of the people and the political rights of the individual and to establish social economic, educational and cultural conditions under which the individual may achieve his dignity and realize his legitimate aspirations in the cities, whether dependent or independent.

The rule of law also means equality of the citizens before the law. That is, it means the state should be given no advantage over the ordinary citizen. Disputes as to the legality of the acts of the government or executive will be decided by judges who are independent of the executive. According to Section 6(6)(b) of the 1999 constitution, it provides that the judicial powers "shall extend to all matters between persons or between government or authority and any person in Nigeria and to all actions and proceedings relating thereto, for the determination of any person as to the civil rights and obligations of that person".

Another important aspect of the rule of law, provided by the constitution of Nigeria, is the fact that no citizen can be punished, except for some legally defined crime. Section 36(8) of the 1999 constitution provides that "no person shall be held guilty of a criminal offense on account of any act or omission that did not, at the time it took place, constitute such offense and no penalty shall be imposed for any criminal offense heavier than the penalty in force at the time the offense was committed". This can mean that the key to securing the future of democracy in Nigeria lies in the active participation of citizens in the political process, which is a key element in physical planning that emphasizes community participation in grassroots decision making. This is supported by Section 13 of the Nigerian Urban and Regional Planning Decree No. 88 of 1992).

Sustainability and Sustainable development

Sustainability is a term that has gained much popularity. It means that a resource is used in such a way that it continues to be available. It also means a way of ensuring that future generations have equal opportunities to the resources that our planet offers. Others would argue that sustainability refers to types of developments that are economically viable, do not harm the environment, and are socially just (Adekunle, 1988; Agwu, 1995; Aluko, 2004, 2007, 2009; Dokee, 1972; Udoh, 1999). All we know is that we must learn how to sustain our environmental resources so that they continue to provide benefits to people and other living things on our planet. The North Ireland Environmental Strategy report in May, 1996 states that a sustainable environment is one in which the physical and biological resources available to one generation are not lost or depleted for the next. That is, sustainability is a state in which human activities do not permanently damage the environment. Therefore, sustainability is fundamental to every issue in the strategy of planning and indeed for the construction of life on the planet.

Sustainable development aims to bring about complete integration of economic, social and environmental matters. Sustainability of the environment is thus regarded as a state in which human activities do not irreversibly damage the environment in which natural habitats, the global abundance and diversity of flora and fauna are maintained in which the extraction and use of natural resources is within their natural replacement rates and in which natural cycles or processes are maintained and in which human impacts can be prepared by the earth's natural and biological processes.

We have experienced how the cities and town planning were treated during the undemocratic days. We have also seen how our cities and town planning could be in a democratic setting. We are quick to say that the new revelation of our democratic setting is one of the lessons for the town planners of their past activities during the military government. As a matter of fact, the rule of law is the mainspring of constitutional law and this we could experience in some of our urban cities in Nigeria, especially Lagos.

Urban Governance

Governance, on the other hand, is the act or process of governing a nation, state, or legal entity. It is the activity of governing a country, controlling, ruling, managing, regulating, influencing, or directing a place. Urban governance means the way in which cities and towns are governed, regulated, or controlled. Cities and towns shelter public and private workers, which form the nucleus of development from which the potential activities of turning the urban environment emerge. Cities and towns, like any human settlement, are living organisms. Therefore, government through the planners, administration, and legislators has the responsibility to address the city problems by planning and controlling the development of the city.

Effects on Urban Planning

The rules of law are necessary elements in urban governance and democratic political institutions. As stated above, the rule of law in urban process is an asset for good planning. When there is a conducive environment for planning where civilized humanity conducts its rule on the basis of reason, persuasion and consent and not on the basis of force, then cities will be able to produce and sustain good life. During the military regime and some non-performing civilian reigns, the military had its own way of imposing orders. It is either you comply or get sacked. Whereas in the new civilian

dispensation, we have had series of complaints, reactions, and open confrontation, challenging and telling us that those who know the planning law best and are supposed to be planning the environment should be up to the task.

Out of the 50 years of Nigerian independence, we have had 29 years of military rule and only 21 years of civilian rule. Ironically, the physical planning body, the Nigerian Institute of Town Planners (NITP), and most of the planning laws came during the military regime. And it, therefore, had to cope with orders, most of which are not challengeable in any court of law.

On a practical note, we can easily consider some instances of abuses during the military rule. A former Oyo State military administrator once publicly rebuked the planning officers of the state for advising him not to demolish some buildings along the streams without compensation (some of the houses were within Bodija estate, which have existed for years). However, because he wanted his own standards, he told them that they could not teach him what to do. That was because the Land Use Law conferred on him the executive powers over land. However, the arbiters on land cases should not be the chief executives of the states or the president, especially when the government is involved (the former president clarified some of these abuses by the Governors on 26th of September, 2001 in Abuja). This will free the government from being the accuser, the prosecutor, and the judge. Also in Lagos State, there was the Ikoyi Park in Ikoyi, Lagos where the then military administrator subdivided the open space and recreational area into residential plots and allocated them to the top military officers and ministers. We heard recently how lands were allocated and acquired in Abuja by previous regimes. Also, there were series of illegal acquisition of State land and property in Lagos State. So where do the planners run to when the Chief Executives are the principal violators of control measures simply because the Land Use Act has empowered them as the chief custodians of land? That is the reason the present governor of Lagos State should be commended or awarded by the Planning Institute. In Oyo State in 2011, the unwritten instructions and law from the State Governor is that no building or structure however small that contravenes fundamental planning law should be demolished without his approval or knowledge simply because it is election year. He does not want to offend any electorate even when the electorate has violated written and serious building and construction law. The professionals have to watch as blockage of drainage, illegal structures without any permit and other awkward planning that can lead to serious urban planning. Meanwhile the Governor will never give approval to correct any offender, the implications are what will happen to all those constructions after few years when the term of his rule now ends. The cities will now be confronted with planning that may be difficult to correct again. These are contrary to rule of law where we have some laws that are made for elites and untouchables while the cities suffer. How can this type of democracy and development be sustained?

Whereas we believe that in the current democratic dispensation (civil rule) the situation has changed from the previous military rule. For instance, the Lagos State government released the list of its highbrow property earmarked for demolition. The former State's Commissioner for Environment and Physical Planning, on Thursday, June 22, 1999, gave the list to include various houses on Victoria Island. Some commercial and professional offices found to have defaulted or contravened development laws and procedures. According to the Commissioner (Guardian, 1999), "any persons who had leased property infringing on public right of way have leased nothing but problems for themselves". All these efforts are still being implemented by the present regime in Lagos State; a state adjudged to be one of the dirtiest in the world is now one of the cleanliest in the world.

Also in Oyo State, the former Governor of the State, Chief Lam Adesina, in 1999 (The Guardian, 1999), told the President of Nigerian Institute of Town Planners (NITP) and other members of the entourage, during a courtesy call on the Governor on Wednesday, 21st of June, 1999 at Ibadan that, "...the State's Town Planners were planning nothing except disaster for the people. They have sacrificed their professionalism at the alter of money, all potential zones of disaster in Ibadan have been approved for building of houses and other structures". The Governor had accused the Town Planners in the State on what he called another flood disaster that would surpass the Ogunpa tragedies of the 1980s. According to him

Another flood disaster is at the corner. We are no longer battling with the problem of Ogunpa, but that of Orogun, which banks have been approved for construction of houses leading to permanent flood in the area. The road from the Secretariat at Agodi to the University of Ibadan was also being threatened by flood due to the greed and self-centeredness of those charged with the duty of planning the city.

Unfortunately some of the land being referred to was allocated by his successors in government. The Obasanjo's regime set up a panel to examine the abuses of all land acquisitions and allocations of the past and recommend appropriately on findings. The Lagos State government has embarked on the demolition of illegal structures and re-acquired all illegally allocated lands and property. The government has also started urban renewal of some settlements (nine at the initial stage) in the Lagos Metropolitan areas. The current government of Fasola has demonstrated how good planning should be. Even though he is a lawyer, not a town planner, he deserves an honor from the town planning institute for proclaiming and executing extreme planning programs for a state, such as Lagos, that was thought to be an urban jungle full of slums and bad planning.

The lessons from the above illustrations are that the planning profession is being realized as an indispensable tool for urban planning and proper development which must be sustained. The planning profession is definitely reaping the dividends of democracy from the realization of the misrule and improper application of planning laws in the past. There are now indications of the tendencies to remedy the past failures of the planning rules because of the previous coercive ways. The environment is now conducive and legal cases are properly channeled through the law courts without fear and torture. But there are still some silent abuses like the case from Oyo State Governor cited above that is totally retrogressive and unsustainable.

Virtually all states in the federation and the National Assembly recognize the significance of physical planning as it has been made compulsory in their ministries and parastatals. Having examined the situations during the military regime and the situations now, it is evident that there are a lot of dividends for the town planning profession from the present civilian dispensation.

Town planning, as a professional disciple in the field of environmental studies and management, is responsible for all town and country planning activities and development in the country. The town planning profession will have a lot of things to say as regards of good governance. The profession flourished well before the Land Use Act, suffered a set back

during the military rule, which eroded a lot of functions in the preparation of layouts due to the executive powers of the state administrators over land. The military regime dealt a serious blow to the progress and implementation of planning programs by flagrant abuses and impositions of orders. Planning became fully government controlled; however, development control was public-oriented. Decisions by state chief executives for changing of plans were mostly taken even before consulting the planning officers. But because of the planners' anticipated gains, they overlook the planning implications.

Whereas under the effective rule of law and good governance, physical planning is meant to take adequate control of the future development by plan preparation and administration as well as development control. The systematic development is essential and necessary for the orderly growth of the towns and cities with the use of master plans, land-use zoning, and layout of new areas as some of the planners' techniques for achieving the desired goal. That is why good governance and effective leadership control is an asset for city development.

It will be argued that without the enthronement of human rights and good governance, the task of establishing a sustainable democracy will be an impossible one. In planning, public participation, which is an essential element of democracy, holds sway in urban planning. In preparing the development plans, there must be adequate regard to the overriding public interest, that is, interest beyond that of individuals. Hence, the need for public participation in the process of preparing the plans, which is the import of the democratic principle in pursuing the greatest good for the greatest number in the community

Government through the appropriate administrative authority oversees the controlling of urban sprawl through effective urban governance. And it is also in a democratic setting that the proper separation of powers between the executive, legislature and judiciary arms of government can be achieved. Therefore, effective hierarchy of urban administrative structure is only possible under democracy. This is what helps in good governance. Adequate physical planning covers the environment or is very essential in shaping the built environment. According to Free Online Dictionary (2009) the environment, in everyday usage, means surroundings, circumstances, or influences. The word "environment", even though it has different meanings, was defined by Udo (1999) as "the whole complex of physical, social, cultural, economic and aesthetic factors which affects individuals and communities and ultimately determines their form, character relationship and survival". The environment was further categorized into four different dimensions, namely:

- Physical environment - (natural and constructed) which includes land and climate, vegetation, wildlife, the surrounding land uses and the physical character of an area, infrastructure/public services, air, noise, and water pollution.
- Social environment – which includes community facilities and services and the character of communities.
- Aesthetic environment – scenic areas, vistas, and views including architectural character of buildings.
- Economic environment – which includes employment, lands ownership pattern, and land values.

The importance or essence of town planning in urban governance is to control the development in the built environment and see to the optimum tapping of the various resources of the city for the well being of its inhabitants. This built urban environment effectively covers land and all the physical developments on it (residential, industrial, recreational,

institutional, commercial building, access roads, footpaths, and supporting infrastructures/public utilities). The Nigerian Urban and Regional Planning Law of 1992 also made a provision that “the land use planning could be set in the wider context of national, state, local, social, and economic planning through effective control of what gets built on land, where and for what purpose.

The major objectives of Town and Country Planning for regulating our cities and the urban environment are as follows: the creation of a healthy and agreeable environment for everybody’s life through functional arrangements of space for human activities; the conservation and enhancement of the physical features, which makes a given environment agreeable and the getting rid of thing that spoiled it (environment); the carrying out of new development and/or re-development activities in accordance with current planning standards; the promotion of functional relationship through adequate accessibility among activity areas for all modes of movement; the guidance and control of the use of land and development resources in the economic interest of the community; the provision of adequate sites for public utilities and amenities that earn no profits for any developer (such as public parks, public schools, sewage works, public water mains, etc), but are necessary for living and making a living at appropriate locations; the relating of socio-economic characteristics of a society to the physical environment for proper distribution and/or re-distribution of available or anticipated resources; and the co-ordination and guidance of the activities of all other professions/actors in a given environment.

CONCLUSION

We have been able to examine the importance and relevance of rule of law to planning and urban governance and how it can be sustained in Nigeria. The essence of this is that our urban environment, which consists of the towns and cities, is what physical planning is basically concerned with in relation to the changes within the physical environment and how it deals with future problems. The success of any good government is the joy of physical planning. Also, we know that Nigeria is presently grappling with the challenges of building a sustainable democracy and consolidating it as a means of governance. It must build credible political institutions worthy of sustaining our cities, and allow democratic values to deepen in such a way that the rule of law and due process will replace the arbitrariness and rule of force, which have taken deep roots in the country over decades of misrule. There is no doubt that the future of the country’s fledging democracy and urban governance will depend largely on the extent to which both the leaders and the people are able to place themselves under a regime of human rights and disciplined governance as opposed to the regime of lawlessness and graft.

A society where the government cannot be restrained or controlled by the rest of the people and where the leadership is corrupt, narrowly egotistical, and incompetent and followership is timid and grossly uncompromising is not a democratic state that can be sustained. And since, in urban governance, sustainability and the application of rule of law in physical planning is meant to take adequate control of future development by plan preparation and administration as well as development control, then only a restrained society is conducive for planning. The systematic development is essential and necessary for the orderly growth of the town and cities with the use of master plans, land use zoning, and layout of new areas.

It is only under good government that proper harnessing of the urban resources could be tapped and sustained without abuses and will result in dividends of democracy. Good governance is largely equated with democratic institutions and practices, including transparency of policy making and administration.

REFERENCES

- Adekunle, A.O. (1988). "Protecting Nigeria's Marine Environment from Pollution: International Perspective". A paper presented at the *Conference on National Policy on Environmental Law*, University of Ibadan.
- Agwu, E.I.C. (1995). *Environmental Science: A planner's view*. Lagos: Mishbet Nigeria Limited.
- Aluko O. (2004). *Environmental Degradation and the Lingering Threat of Refuse and Pollution in Lagos State*. Research project in the Department of URP at the University of Lagos.
- Aluko, O. (2007). *Rural Transportation and Development Planning in Nigeria*. Kins Publishers Ltd, Ibadan, Nigeria.
- Aluko, O. (2009). The role of the professionals in the built environment. In O. Aluko (ed.), *Introductory Course in Environmental Sciences*. Kins Publishers Ltd, Ibadan, Nigeria.
- Aluko, O. (ed.). (2009). *Introductory Course in Environmental Sciences*. Kins Publishers Ltd, Ibadan.
- Aluko, O. (2008). *Housing and Urban Development in Nigeria*. Kins Publishers Ltd, Ibadan .
- Dokee, D. (1972). Dangers of Pollution. In *Daily Times*, Lagos, November 19, p. 24.
- F.A.O. (1971). *International Problem for Fisheries*. Rome, p. 6.
- Free Online Dictionary (2009) <http://www.thefreedictionary.com/environment>
- The Guardian Newspaper (1999) June 22, pp. 1-3.
- The Nigerian Constitution. (1999). Sections 6(6)(b) and 36(8).
- The Nigerian Urban and Regional Planning. (1992). Decree No. 88. Section 13.
- Udo, R.K. (1999). Population and the Environment. In J.O. Abiodun, J.O (ed.) "Nigeria's Endangered Environment: Agenda for a New Millenmium". Lagos: Obafemi Awolowo Foundation.

ABOUT THE AUTHOR:

Dr. Ola Aluko is affiliated with the Department of Urban and Regional Planning at the University of Lagos, Akoka, Lagos, Nigeria.