

THE IMPACT OF LEGAL PROVISIONS FOR A SUSTAINABLE CIRCULAR ECONOMY

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“Nothing is useless
Reuse; Recycle and Re-manufactured within the ambit and instrumentality of law”
(Nasir, M. A 2022)

Abstract

The circular economy, an important and rapidly growing economic field, is a systems-level approach that seeks to reduce resource consumption and waste generation while increasing economic prosperity. It is, however, critical to understand the legal provisions that can support and enable its success. It cuts to the heart of how the law can support and facilitate sustainable development through the circular economy. This paper examines how a circular economy can contribute to sustainable development, by focusing on its environmental, economic, and social impacts. In addition, it evaluates the legal and policy instruments needed to facilitate the transition to a circular economy. The article further examines the legal framework regulating circular economy within the Nigerian context. It explores the role of national and international laws in promoting a circular economy and identifies opportunities for reform. It argues that a holistic approach to the law is necessary to ensure a sustainable and just transition. Through an analysis of case studies and theoretical frameworks, the article finds that the circular economy has the ability to contribute to sustainable development, but significant policy changes are needed to realize this. By addressing these challenges, the circular economy can play a significant role while the law serves as a catalyst.

Keywords: circular economy, sustainable development, impediments

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1.0 Introduction

The circular economy is a new model for economic development that aims to address the problems of environmental degradation, resource depletion, and climate change. It is founded on the principles of designing out waste, keeping products and resources in use for as long as possible and renewing natural systems.³ The circular economy is a necessary step towards achieving sustainable development as it can help lift people out of poverty and aligns with the Sustainable Development Goals.⁴

However, the continuous increase in financial crime, terrorism, and other vices has so far constituted a clog in the wheel of considerable progress. Invariably, issues that are deeply connected and relate to better living conditions otherwise referred to as major catalysts in this circumstance are seriously impaired. Thus, health, education, and essential social amenities are mostly in a state of comatose. All these appear to be consequential multiplier effects of money laundering, illicit financial flow, and other financial crimes which are staggering.⁵ While, the much-needed peace, is fast eluding people as a result of various insurgencies, terror attacks, banditry, and many others. Direct investment then becomes a mirage. This is seriously slowing down poverty reduction and making nonsense of the whole efforts. Meanwhile, some laws are in place to deal with these vices. But the reality on the ground depicts a lawless environment.

Despite these challenges, the circular economy remains a promising pathway to sustainable development. It is designed to minimize waste and maximize value creation by keeping products, components, and materials at their highest utility and value at all times. By distinguishing between technical and biological cycles, the circular economy aims to eliminate waste through reusing, repairing, refurbishment, and recycling.

The circular economy focuses on regeneration and restoration, rather than linear and extractive. It is distinguishable from the traditional linear economy in that the latter is based on a "take, make, dispose" model, where materials are extracted from the earth, used for production, and then discarded as waste. However, the circular economy keeps materials in use for as long as possible, through strategies like reducing, reusing, and recycling.

Nigeria is an interesting and important case study for the circular economy, given its rapid economic growth, high population density, and resource challenges. Moreover, there are some very interesting initiatives underway in Nigeria to promote a more circular economy.

Meanwhile, a major function of law is to catalyze change. The law ought to be an instrument of social change. Taking cognizance of the fact that economic and other

³ See Circular economy at <https://www.bing.com/search?q=circular+economy&cvid> accessed 2nd April 2024.

⁴ Sustainable Development Goal no. 17

⁵ Maruf Adeniyi Nasir, "Compatibility of Islamic Finance and Anti-Money Laundering Laws: A Myth or Reality?" IIUM Law Journal 26, no. 1 (2018): 55.

developments have a direct relationship with the enabling law and its implementation, examining various leakages that have denied many nations the opportunity to achieve sustainable development. This thus becomes the focus of this article. Invariably, other segments besides identifying the clogs and their causes enunciate ways by which law could be employed to achieve better results in terms of having a circular economy that guarantees lifting people from abject poverty. This article will examine the legal framework for the circular economy, with a focus on Nigeria. It explores the role of national and international law in promoting a circular economy, and identifies opportunities for reform. The article argues that a holistic approach to the law is necessary to ensure a sustainable and just transition

2.0 Methodology

The article employs a qualitative research method. It is designed in a manner that doctrinal and non-doctrinal research methods are deployed.⁶

3.0 Background to the Study

The international community met severally in the year 2015 with the sole aim of generating and adopting a far-reaching plan intended to lift people of the world from abject poverty. The document that emanated from the meetings appears to be ambitious as the elimination of poverty is hinged on massive investment. The investment, particularly in social investments that were outlined for a 15-year global plan was massive, as it was expected to attract trillions of dollars. This thoughtful plan culminated in Sustainable Development Goals (SDGs).⁷ Interestingly, rules of conduct are veritable tools to achieve the desired objectives. This is because the relationship that exists between law and social changes is like that of the Siamese twins.

Consequently, the use of law as an instrument of social change becomes imperative, more importantly because, the economic sector, financial sector, or the whole concept of circular economy depends on not only the provisions of law but the effective implementation of such enabling laws. Invariably, the role of law and legal institutions in achieving a circular economy and any form of economic development cannot be overemphasized as this has a direct relationship with the enabling laws.

Achieving sustainable development, therefore, requires an efficient legal system that would meet the needs of the economy to achieve its lofty goals. But this cannot be done until certain questions are answered in the affirmative. How would the law be adapted to positively change the conditions of people? How can the legal system be structured to efficiently contract the needs of the economy in such a manner that

⁶ Effective combination of “Doctrinal and Non-Doctrinal” in a qualitative research methodology to achieve the desire result. See; Anwarul Yaqin, *Legal Research and Writing* (Kuala Lumpur: LexisNexis, 2007) pp. 9-10; Terry Hutchinson, *Researching and Writing in Law*, Third Edition (Australia: Thomson Reuters, 2010) p. 5

⁷ Idowu A Akinloye, ‘Towards the Implementation of Sustainable Development Goals in Nigeria: Maximizing the influence of Religious Leaders’ *Stellenbosch Theological Journal* 4(1) (2018) 39-60.

would foster the eradication of poverty? These questions are very germane, particularly now that the contemporary financial system has constantly been traumatized by illicit financial flow, money laundering, corruption, and terrorism financing. The resultant effect of all these is abject poverty. We shall therefore in the subsequent segments examine the conception of sustainable development in relation to the circular economy along with the clogs that are posed by various financial crimes, the unenforceability of certain categories of rights that are relevant, and how it be resolved through the instrumentality of law reform.

4.0 Sustainable Development

Sustainable development is a notion which attempts to address challenges that are currently confronting humanity and guarantee a better living in the future. It is a well thoughtful plan that tends to blend issues of environmental and social economics growing concerns by offering systematic approaches that are enduring.⁸ Sustainable development is described by the 1987 Brundtland Commission Report described as development that meets the needs and necessities of the present-day without compromising the ability of future generations to meet their own needs.⁹

According to the United Nations, sustainable development refers to the "development that meets the needs of the present without compromising the ability of future generations to meet their own needs." Invariably, sustainable development is an attempt to achieve economic development without necessarily compromising the benefit of the future generation. This is done by protecting and guaranteeing the quality of the environment that will provide for the future generation's needs. Thus, the focus of sustainable development is to derive the means that would advance the quality of life for all, and still ensures that natural resources are not overreached beyond the capacity of the environment to keep it in good quality for future generations.

The idea of sustainable development revolves around human activities that guarantee enduring life sustenance. This is where the instrumentality of law becomes necessary as it still the veritable tool that can regulate human activities to achieve the much-desired sustenance. There is a nexus between the sustainable development and circular economy. While sustainable development focuses at meeting the essentials of the contemporary time without denying the future generations the opportunity to meet their own needs, circular economy seeks to reduce resource consumption and waste production, while also creating value and prosperity. Thus, circular economy is a significant element to achieving sustainable development because it seeks to promote, protect and preserve the future of humanity.

⁸ P K Rao, *Sustainable Development*, vol. 1 (Blackwell Publishers, 1999).

⁹ **Brundtland Report**, also called Our Common Future, publication released in 1987 by the World **Commission** on Environment and Development (WCED) that introduced the concept of sustainable development and described how it could be achieved. See www.britannica.com/topic/Brundtland-Report accessed on 8th August 2023.

5.0 Circular Economy

It is stated that circular economy “is restorative and regenerative by design because it aims at keeping products, components, and materials at their highest utility and value always, distinguishing between technical and biological cycles”.¹⁰ Therefore, the circular economy is a means of optimize the value of resources used while the resources utilized remain minimal. It is a concept that makes economic development an all-inclusive affair, with the plan to get the best from using fewer resources. It is a round economic system that benefits the current players and guarantees those of the future participants. The circular economy is a new paradigm for economic development that aims to tackle the problems of environmental degradation, resource depletion, and climate change. It is founded on the principles of eliminating waste; prolong the use of products and materials, and revitalizing natural systems.¹¹

Circular economy is a concept that may not be separated from sustainability because the similarities and differences remain a thin line and are almost ambiguous.¹² With the circular economy principle, goods that have reached the end of their service are rejuvenated as resources that can benefit others through waste-minimizing techniques. In essence, this can be described as an economic model specifically created to reduce waste and increase the value of products. This goal eliminates waste by reusing, repairing, refurbishing, and recycling materials, and by extending the lifespan of products and materials for as long as possible.

The circular economy is, therefore:

an economic model designed to minimize waste and maximize value creation. It aims to eliminate waste by reusing, repairing, refurbishing, and recycling materials, and keeping products and materials in use for as long as possible. The goal of the circular economy is to create a regenerative and restorative system rather than linear and extractive.¹³

The variance between the circular economy and the traditional linear economy is that the latter is founded on a "take, make, dispose" model, where materials are explored from the earth, used for products, and then discarded as waste. On the other hand, circular economy aims to keep materials in use for a longest time possible, through strategies like reducing, reusing, and recycling. The focus of circular economy is to generate a regenerative and restorative system rather than linear and extractive. This is done in such a manner that production is therefore replaced with sufficiency with the 3Rs system (“Reuse”, “Recycle” and “Remanufactured”).

¹⁰ Ellen Mac Arthur Foundation, Circular Economy Overview, <https://www.ellenmacarthurfoundation.org/circular-economy/overview/concept>, lastly reviewed 7 March 2017, accessed on the 16th August 2021.

¹¹ Ibid.

¹² Martin Geissdoerfer et al., “The Circular Economy—A New Sustainability Paradigm?,” *Journal of Cleaner Production* 143 (2017): 757–68.

¹³ Ibid.

The purpose of circular economy is avoidance (and or if not possible) to minimize waste. Hence, what cannot be reused can be recycled and what cannot be recycled will be remanufactured.¹⁴ An instrumentality of law is therefore needed in this circumstance to prohibit waste. This is because of the multiplier effect embedded in it. For instance, more jobs are bound to be created if goods and materials are reprocessed and resource consumption and waste are reduced while more energy is saved.¹⁵ Thus waste management has to be backed up with enabling laws that will regulate their attitude towards waste disposal.

The slogan in the circular economy world is nothing is useless; hence, the proper separation of waste items must be encouraged while the indiscriminate disposition of waste must be criminalized. Again, this lofty idea can only be achieved if economic leakages are blocked and the reign of terror is brought to an end. Consequently, there would be more resources to ginger economic activities and the atmosphere would be peaceful for the enhancement of growth and development. Issues relating to this are therefore the focus of the next segment.

5.1 Benefits of a Circular Economy

The benefits that could be derived from a circular economy are countless. These are diverse and interconnected, ranging from the environmental, economic, and social benefits. As earlier discussed, the circular economy can create economic value by minimizing waste and prolonging the lifespan of products and materials. This can result in cost savings for businesses and consumers, as well as the creation of new job opportunities and markets. In terms of environmental benefits, the circular economy can decrease the extraction of virgin materials and the volume of waste deposited in landfills. It can also lower emissions and the consumption of natural resources. Additionally, it is crucial to consider the social and ethical implications of the circular economy. Specifically, it can enhance the well-being of people and communities, by improving access to essential goods and services, generating employment opportunities, and alleviating poverty. The benefits in this circumstance can be classified into 3 broad areas which include; the environmental, economic and social benefits of the circular economy.

As we discussed earlier, the circular economy can create economic value by reducing waste and extending the life of material resources and products. This can result in cost savings for businesses and consumers and can create new jobs and markets. In terms of environmental benefits, it can reduce the extraction of virgin materials and the volume of waste that are disposed. It can also reduce emissions and the use of natural resources. Efficient use of the available material resources is bound to have a multiplier effect on social activities. This ranges from the creation of employment, social amenities, and other infrastructural development.

¹⁴Walter R Stahel, "The Circular Economy," *Nature News* 531, no. 7595 (2016): 435.

¹⁵ Stahel.

5.2 Principles of a Circular Economy

There are seven core principles of the circular economy and each of these principles plays a crucial role in creating a regenerative and restorative system.¹⁶

The first principle of the circular economy is to eliminate waste and pollution. This involves considering ways to prevent waste and pollution from occurring in the first place, rather than just addressing them later. It involves designing products and systems that are inherently more efficient and produce less waste. It also entails changing our perspective on what is considered a waste. One way to design out waste and pollution is to move towards a "closed loop" system, where materials are reused rather than discarded. For example, instead of using single-use packaging, we can design packaging that can be reused or recycled. This would minimize the volume of waste that ends up in landfills. Another way to design out waste and pollution is to use more renewable and biodegradable materials so that products and packaging can break down naturally at the end of their life.

The second principle of the circular economy is to make sure products and materials are in use for a longer time. This means designing products to last longer and be more durable, and it also means making it easier to repair and upgrade products. For example, companies can offer repair services or sell repair kits so that consumers can fix their products themselves. Another example is designing products with modular components so that individual parts can be replaced if they break. These strategies help to extend the life of products and keep them out of landfills.

The third principle is to regenerate natural systems. This principle emphasizes on the role of the circular economy in restoring and enhancing the environment. For example, we can design products and systems that minimize the use of water and energy, and we can use renewable energy sources like solar and wind power. We can also use resources that are biodegradable and that do not contain harmful chemicals. In addition, we can restore ecosystems by planting trees, restoring wetlands, and improving soil health.

The fourth principle is to preserve and enhance value. This principle focuses on the value of products and materials throughout their life cycle. It encourages individuals to design products that retain their value over time and to design systems that allow them to extract maximum value from products and materials. For example, one can create "product-service systems" that allow consumers to access the functionality of a product without owning it, such as leasing or sharing programmes. Products that are easily recycled and reused can also be designed.

The fifth principle is to encourage system effectiveness. This principle is about creating a system that is efficient and effective in realizing the objectives of the circular economy. It involves measuring and monitoring progress and identifying opportunities for improvement. One example of this principle is the "circular economy index", which measures how well countries are performing in terms of the

¹⁶ See circular economy in <https://www.bing.com/search?q=circular+economy&cvid> accessed on 2nd April 2024.

circular economy. This index helps to identify areas for improvement and to track progress over time.

The sixth principle is to foster system thinking. This principle is about considering the entire system, rather than focusing on individual products or processes. It involves taking a long-term view and thinking about the consequences of our actions on upcoming generations. It also involves considering the relationships and interconnections among different parts of the system. One example of this principle is "life cycle assessment", which examines the environmental effect of a product throughout its lifespan, from the extraction of raw materials to its disposal.

The seventh and final principle is to promote social equity. This principle focuses on ensuring that the merits of the circular economy are distributed fairly. It involves taking into account the needs of all stakeholders, including consumers, workers, businesses, and communities. Additionally, it entails creating opportunities for vulnerable groups, like women and children, and advocating fair labour practices.

6.0 Circular Economy and Sustainable Development

One of the aims of sustainable development is to reduce poverty and inequality. A circular economy can help to achieve this goal by creating jobs and income opportunities through the repair, refurbishment, and recycling of products. It can also help to reduce the costs of basic goods and services, making them more affordable for those living in poverty.

Another example is the goal of protecting the environment and promoting sustainable resource use. The circular economy can help achieve these goals by decreasing the amount of raw materials used in production and increasing the reuse and recycling of materials. This can reduce the environmental impact of resource extraction and consumption, as well as preserve natural resources for future generations. It is also crucial to consider the social and ethical implications of the circular economy. Specifically, it can promote the well-being of people and communities by enhancing access to basic goods and services, generating job opportunities, and alleviating poverty.

It can also promote ethical business practices, by encouraging transparency and accountability in the supply chain. Thus, the circular economy is of greater opportunity and great benefits that can contribute immensely to sustainable development, particularly when the reduction in poverty and inequality which is a major and key goal of sustainable development is considered. The circular economy can help to achieve this goal by creating jobs and income opportunities through the repair, refurbishment, and recycling of products. It can also help to reduce the costs of basic goods and services, making them more affordable for those living in poverty.

Another example is the goal of protecting the environment and promoting sustainable resource use. The circular economy can help to achieve this goal by minimizing the quantity of raw materials used in production, and increasing the recycling of materials. This can result in reducing the environmental impact of resource exploration and consumption. It can also help to preserve natural resources for future generations.

It is also crucial to reflect on the social and ethical implications of the circular economy. Specifically, the circular economy if applied can effectively promote the well-being of people and communities. This is done by providing and improving access to basic goods and services, reducing poverty through creation of job opportunities, and reducing all categories of unemployment. It can also promote ethical business practices, by promoting transparency and accountability in the supply chain. What then is the meaning of a circular economy? A comprehensive answer to this is provided in the next segment.

7.0 Impact of Law

The relevance of law in promoting and driving the core values of a circular economy is wide. For instance, environmental law can help to incentivize and regulate circular practices if the economic and environmental dimensions of the circular economy are considered. Furthermore, economic law can help to create the right legal structures and incentives for businesses to adopt circular practices. Many areas of law are hamburger of circular economy. Various branches of law, including environmental law, intellectual property law, economic law, corporate law and contract law serve as valuable tools in this regard.¹⁷

The importance of international law in this circumstance cannot also be overlooked in this context. International law is relevant in promoting sustainable development. Many of the environmental and economic challenges that are driving the circular economy are global, and specific international legal instruments, such as the Paris Agreement or the UN Sustainable Development Goals are purposely structured and designed in such a manner that supports a sustainable circular economy.¹⁸ While international law plays a crucial role in circular practices, environmental law helps to incentivize and regulate circular practices and economic law can help to create the right legal structures and incentives for businesses to embrace circular practices. How can we inject the use of law to support a circular economy for sustainable growth or development?

There are other ways that law can be used to support the circular economy. One of these ways is through the use of economic incentives, such as tax breaks or subsidies for businesses that adopt circular practices. Another way is through the use of legal standards and regulations, such as mandatory standards for recycled content in products. Finally, legal systems can create "market pull" for circular products and services by setting targets or quotas for the use of recycled materials, or by creating certification or labeling systems that identify circular products.

¹⁷ Muhammed Tawfiq Ladan, "Recent Trends in Regulating Money Laundering & Terrorism Financing in the Banking, Insurance and Capital Market Sectors of the Financial Economy of Nigeria: Role of the Financial Regulators," Insurance and Capital Market Sectors of the Financial Economy of Nigeria: Role of the Financial Regulators (December 10, 2013), 2013

¹⁸ Navin Beekarry, "International Anti-Money Laundering and Combating the Financing of Terrorism Regulatory Strategy: A Critical Analysis of Compliance Determinants in International Law," Nw. J. Int'l L. & Bus. 31 (2011): 137.

International law can also promote the circular economy. One way is through international agreements, such as the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, which controls the movement of hazardous waste between countries. Another way is through the use of international standards like as the **ISO 14001** standard for environmental management systems¹⁹. International law can also create opportunities for cooperation between countries, which can facilitate the exchange of best practices and technology for circular practices. Although Law plays a key role in promoting the circular economy, it's important to recognize that law is just one tool among many. Other tools, such as education awareness-raising and voluntary initiatives by businesses, can also be relevant in creating a more circular economy.

The legal framework governing the circular economy is still evolving in Nigeria. A number of other challenges should be addressed such as lack of awareness of the benefits of the circular economy, lack of coordination between different government agencies, and lack of political will to implement the necessary changes. One of the major problems may be the lack of consciousness about the circular economy, which makes it difficult to create the political will and public support needed to implement policy changes.

Another challenge may be absence of incentives for businesses to embrace circular practices, which means that there is not enough demand for these practices in the market. One way to improve on awareness rate of the circular economy is through public education campaigns, which can raise awareness of the benefits of circular practices. Another way is to provide incentives for businesses to embrace circular practices like tax breaks or subsidies. This could create the market demand needed to make these practices more widespread.

Indeed, the legal framework in Nigeria is still evolving and there is not a long history of circular economy legislation. However, some existing laws can be used as a foundation for developing new laws and regulations to support the circular economy. For example, the Nigerian Constitution contains provisions related to environmental protection, and the Environmental Impact Assessment Act of 1992 entails that environmental impacts be assessed before projects are approved.

It, therefore, seems that there is a foundation upon which to build, but there is still a lot of work to be done to create a comprehensive legal framework for the circular economy in Nigeria. One of the next steps may be to identify specific gaps in the current legal framework and to draft new laws and regulations to fill those gaps. It is equally important to consider how the new laws and regulations can be implemented and enforced, and how they can be monitored and evaluated to ensure they are having the intended impact. This will require a coordinated effort across different government agencies and a clear implementation plan.

¹⁹ Iso 14001 is an internationally acceptable standard that sets out requirements for an environmental management system. See <https://www.iso.org/files/live/sites/isoorg/files/store/en/PUB100371>, accessed on 2nd April 2024.

8.0 Specific Gap and Impediments in the Current Legal Framework

One of the biggest vacuum in the current legal framework is the lack of specific legislation on the circular economy. There are some general laws related to environmental protection, but these laws do not specifically address circular economy principles such as resource efficiency, recycling, and the "reduce, reuse, recycle" hierarchy. There is also a lack of specific regulations for key sectors such as construction, food production, and packaging.

Let us consider how new laws and regulations could be implemented. One of the challenges is the lack of capacity within government agencies to enforce the new laws and regulations. This will require the development of training programs and the provision of resources to ensure that the new laws are properly understood and implemented. Another challenge is the need for effective monitoring and evaluation systems to ensure that the new laws are having the intended impact.

Money laundering, corrupt practices, illicit financial flow, insurgencies, terrorism acts, terrorist financing, and a host of other financial crimes are major distractions leading to a lack of capacity and political will to implement the new law. Must be urgently addressed²⁰ These are indeed serious issues that can affect the implementation of any new laws and regulations, including those related to the circular economy. These issues if not addressed can lead to a lack of focus and resources to address the issues of the circular economy.

9.0 Financial Crime

Terrorism financing, illicit financial flow, corruption, and money laundering are strong words that bring feelings of rage and displeasure to people, regardless of country and jurisdiction. Money laundering and terrorist financing are considered to envelope other financial crimes. The negative impact of this on achieving a circular economy is unquantifiable. The United Nations Office on Drugs and Crime estimates that at least USD 2.6 trillion is stolen every year through corruption.²¹ Realizing the urgent need to take collective action to combat money laundering and terrorism financing together, the world community through the Financial Action Task Force (FATF) has formulated the global standard for Anti-Money Laundering and Counter Financing of Terrorism.

Most countries now have laws that have proscribed money laundering and terrorist financing while those that are yet to comply or are with non-standard laws are blacklisted.²² Nevertheless, money laundering and terrorist activities are still on the

²⁰ Norhashimah Mohd Yasin, Regulation of Islamic Banks and Allegations of Lax Control of Money Laundering, *Journal of Islamic Law Review*, vol 4 (2008).

²¹ Yazid Mohd Bin Kepli and Nasir Maruf Adeniyi, "Money Laundering: Analysis of Placement Methods," *International Journal of Business, Economics and Law* 11, no. 5 (2016): 32–40

²² Maruf Adeniyi Nasir, Yazid Mohd bin Kepli and Norhashima Mohd Yasin. "Money Laundering: A Paradox of Deterrence Mechanism." *International Journal of Business, Economics and Law* 11, no. 3 (2016): 45–55. klibel@hotmail.my

increase. The continuous threat of Money laundering and terrorism financing (ML/TF) on the global economy therefore poses great challenges to all the key players, particularly the developing countries. ML/TF is a major threat to the financial flow of every nation. It is a menace with a great potency of tearing into shredding the economics nations. It is also capable of undermining macroeconomic performance, posing a significant risk to the soundness and stability of the economy as a whole.²³

10.0 Causes of the Problem

Several causes could be possibly linked with these developments. Some of these are identified and discussed in the segment below.

Constitutional Impediments

There are circumstances where existing laws inhibit effective prosecution. Specifically, upon considering the express provisions of the constitution, it is discovered that there are additional constitutional impediments beyond those previously. The rights of the accused person under the Nigerian constitution are extensive, leading one to reasonably conclude that the constitution's over-protective tendency appears to impede effective prosecution.

For example, in addition to other provisions of the constitution,²⁴ an accused must be taken to court within 24 hours if there is a court within a 40 km radius, and at most 48 hours. The rights of the accused must be observed,²⁵ including the right against self-incrimination, the right to remain silent,²⁶ and the right not to be compelled to give evidence during trials, among others. Although these rights are not explicitly stated in the MLPA, money laundering laws are usually made superior to other laws except the Constitution. All laws must be consistent with the provisions of the Constitution. Therefore, all these rights must be observed while handling money laundering matters just like any others.

It may seem like there is an excessive protection of the accused against investigators, which differs from the legal framework in other countries with anti-money laundering legislation. In many Commonwealth jurisdictions, the obligations under anti-money laundering laws take precedence over other laws, giving significant power to investigators and prosecutors in these cases. Balancing the rights of the accused with the need to prosecute offenders can be a complex task, but the ultimate goal is justice through the law. Fairness and due process must be respected.

Non-Recognition and Unenforceability of Social-Economic Rights

Achieving a desirable circular economy and other SDG goals at large would be easier if various countries of the world either give effect to the social economic rights of their citizens or make provision for it if there are none. The constitutions of many

²³ Maruf Adeniyi Nasir, [The Relevance of Maqasid al Shari'ah to Anti-Money Laundering and Terrorism Financing](#), Handbook of Research on Theory and Practice, 2020 - igi-global.com

²⁴ Section 35(5) (a& b) of the Constitution of Federal Republic of Nigeria, (CFRN) 1999.

²⁵ Ibid.

²⁶ Section 35(2) Constitution of Federal Republic of Nigeria, (CFRN) 1999.

countries provided for social and economic rights but such provisions are not justiciable. For instance, countries such as Nigeria, India, and many others, provided for these rights in their constitution but yet remain unenforceable unless such is founded along with other legal or constitutional basis. The implication of this is that if such provisions are not implemented action cannot be maintained against the government for the enforcement. A cursory look at chapter II of the 1999 Constitution of the Federal Republic of Nigeria shows that it contains provisions for economic, social, education, health, and foreign objectives that can guarantee life sustain-ace but these provisions are not justiciable by section 6(6)(c). A cursory look at section 16 of the Nigerian constitution will show that, if it could be implemented, it would have a greater positive effect on the circular economy and the general wellbeing of the citizens without compromising the benefit of the future generation.

Section 16 provides *inter alia*:

“(1) The State shall, within the context of the ideals and objectives for which the provision is made in this Constitution.

(a) harness the resources of the nation and promote national prosperity and an efficient, dynamic, and self-reliant economy;

(b) control the national economy in such a manner as to secure the maximum welfare, freedom, and happiness of every citizen based on social justice and equality of status and opportunity;

(c) without prejudice to its right to operate or participate in areas of the economy, other than the major sectors of the economy, manage and operate the major sector of the economy;

(d) without prejudice to the right of any person to participate in the areas of the economy within the major sector of the economy, protect the rights of every citizen to engage in any economic activities outside the major sectors of the economy.

(2) The State shall direct its policy towards ensuring:

(a) the promotion of a planned and balanced economic development;

(b) that the material resources of the nation are harnessed and distributed as best as possible to serve the common good;

(c) 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....”²⁷

The above provision no doubt imposes a clear-cut obligation that will enhance sound management of the economy in such a manner that is in tandem with the SDGs goals.

²⁷ Section 16 of the Constitution of the Federal Republic of Nigeria

Similarly, Sections 17 to 20 provide for social, educational foreign policy, and environmental objectives.

One way to overcome the capacity and political will challenges is through multi-stakeholder partnerships. These partnerships can bring together different sectors, including the government, business, and civil society, to share expertise, resources, and political will. They can also help to align interests and coordinate efforts towards common goals.

Another approach that could be effective is to use a "bottom-up" approach to implementing the circular economy. This approach would focus on local and community-based initiatives that can build support and interest in circular economy principles. These initiatives could include community composting programs, local recycling initiatives, and community gardens. These types of initiatives can help to create awareness and support for the circular economy, which could ultimately help to build the political will needed to implement the new laws and regulations.

International law can play a role in promoting the circular economy, but its effectiveness will depend on the specific legal instruments and how they are implemented. One example of an international legal instrument that is relevant to the circular economy is the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal. The Convention can help to regulate the international trade of waste and prevent harmful materials from entering the environment. However, it is important to note that the effectiveness of the Basel Convention depends on how well it is implemented by the signatory countries.

These other areas of law are also very important in promoting the circular economy. For example, economic law can help to encourage and support the development of markets for secondary materials, such as recycled materials and products. Corporate law can help to promote the integration of circular economy principles into business models and supply chains. Intellectual property law can help to protect the knowledge and innovation that is developed as part of the circular economy. Contract law can ensure that agreements between businesses, consumers, and other stakeholders are fair and transparent.

It is also important to remember that these different areas of law are all interconnected and need to be considered holistically. For example, economic law can affect the way that businesses operate and make decisions, which in turn can affect environmental law and the impact on the environment. Contract law can affect intellectual property law by ensuring that the rights and responsibilities of all parties are clearly defined. The interconnectedness of the different areas of law makes it important to consider them together when creating and implementing laws and regulations related to the circular economy. A comprehensive and holistic approach is needed for creating a legal framework that is effective and sustainable—system thinking. Systems thinking is a way of understanding how different parts of a system, such as the legal system, are connected and affect each other. It takes into account the complexity of the system and how it is influenced by the surrounding environment. Systems thinking can be a

helpful tool for understanding and managing the complexity of the legal system concerning the circular economy.

The distinction between fundamental and non-fundamental rights is a real challenge to implementing the circular economy in Nigeria. It is interesting to note that this distinction is not unique to Nigeria, but is present in many other countries. However, the impact of this distinction on the circular economy in Nigeria is significant. How this distinction has affected the implementation of circular economy policies and laws could be expanded.

The first way is that this distinction has led to a lack of prioritization of social and economic rights, including those that are relevant to the circular economy. Because these rights are not considered fundamental, they are often neglected or not given the same level of attention as fundamental rights. This has resulted in a lack of investment in infrastructure and programs that could support the circular economy, such as recycling and waste management programs.

The second way is that the lack of justiciability of social and economic rights has made it difficult to hold the government accountable for their implementation. Without the ability to enforce these rights through the courts, it is difficult. The third way is that the distinction has led to a disconnect between the government and the citizens on issues related to the circular economy. The citizens do not see the government as being committed to promoting the circular economy, because they perceive that the government does not prioritize their social and economic rights. This lack of trust and cooperation can make it difficult to implement circular economy policies and laws. How do you think these challenges can be addressed?

11.0 Possible Solutions to these Challenges

The first step is to include social and economic rights as fundamental rights in the constitution. This would necessitate a constitutional amendment, which would need to be approved by a two-thirds majority of the National Assembly. However, this solution is likely to be difficult to achieve due to the political challenges involved.

A second solution is to promote public awareness and education about the circular economy, and its benefits for both the environment and the economy. This could be done through media campaigns, school curricula, and community outreach programs. Increasing awareness of the circular economy through public education campaigns can raise awareness of the benefits of circular practices and this can lead to the enhancement of the cooperation of the people and better compliance with laws that are geared toward achieving such objectives. For instance, environmental law on waste disposal.

Another way to promote the adoption of circular economy practices is by providing incentives for businesses and individuals. This can be achieved through tax credits, subsidies, and other financial incentives. While this solution would necessitate substantial government investment, it has the potential; to highly effective in advancing the circular economy. Finally, the fourth solution is to strengthen the capacity of government agencies to implement circular economy policies and laws.

This could be done through training and capacity-building programs, and by increasing the resources available to these agencies.

Ensuring that businesses adopt circular practices, such as tax breaks or subsidies is another possible solution. This could create the market demand needed to make these practices more widespread.

12.0 Recommendations

An instrumentality of law is needed to

- i. prohibit wastefulness. Waste management has to be backed up with enabling laws that will regulate their attitude towards waste disposal. The slogan in the circular economy world is nothing is useless; Hence, the proper separation of waste items must be encouraged while the indiscriminate disposition of waste must be criminalized.
- ii. Create ways of doing business with ease (e.g Registration of a company under the Company and Allied Matters Act 2020, outlawing double taxation and access to credit facilities with ease).
- iii. Block the leakages e.g., Money laundering, Illicit Financial Flow, and Terrorism financing (AML/CFT ACTS) (MLPA 2022).
- iv. Suppression of terror and creation of a peaceful environment.
- v. Synergy and cooperation of law enforcement institutions.
- vi. Provides for adequate training. Prosecutors of financial crimes should be well trained and well equipped while a background investigation should be concluded before an arrest is made, looking for evidence to prosecute after the arrest is not tidy enough and would be running afoul of the law that limits the timeframe for detention before prosecution.
- vii. Political will to implement laws is key.

12.1 Conclusion

Achieving circular economy and other sustainable development goals will no doubt require necessary provisions of law that will have positive impacts and serve as catalysts for the required positive changes. While a lot of efforts are being directed toward circumventing However, the most important thing is effective implementation of laws. Thus, the political will is key for the implementation and enforcement of the existing AML/CFT laws to block financial leakages, promote a peaceful environment and security of life and property to lift people out of abject property. The circular economy holds great promise for achieving sustainable development, but there are a few challenges that need to be resolved. Legal and policy transformation are needed to create the right incentives and regulations to encourage the transition to a circular economy. By addressing these challenges, the circular economy can help reduce environmental impacts, promote social well-being, and create economic opportunities. Through a systems-level approach, the circular economy can become a driving force for a more sustainable future.