



**Promoting sustainable development in Africa:  
civil society and free access to information**

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**Abstract:**

*Sustainable development is a difficult concept in the African context, where a dismal development record is often married to a democratic deficit, and globalisation often trumps local development needs. But two parallel trends offer a ray of hope for sustainable African development: the proliferation of civil society organisations and an increasing demand for effective access-to-information legislation. The paper explores the principles of access to information regimes and their impact on sustainable African development in such areas as socio-economic justice, political participation, and social, economic and cultural rights.*

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**1. Introduction**

For the past decade, the right of access to information (ATI) has increasingly been recognized as *sine qua non* for democratic governance and thus to sustainable development. This is seen through the adoption of various ATI legislation in a number of countries, including those of Africa. The development of Africa has, internally, been marred by political instability due mainly to repressive regimes, civil strife, poor economic policies and blatant corruption by government officials. Externally, too, strangulating foreign debts, unfavourable global trading system, are some of the factors impeding Africa's economic growth. Faced with decades of poverty and stagnation, African populations are increasingly becoming aware of the need to come together to take their destiny into their own hands. This is seen by the proliferation of civil society organisations (CSOs) and the pressure they exert on their governments to allow them to participate in the decisions that affect their lives and also ensuring transparency and probity in governance. There is widespread belief that ATI laws can ensure greater

transparency and accountability, which underpin good governance. It is further believed that this, in turn, is an essential element for reducing poverty and achieving the Millennium Development Goals (MDGs). As suggested by Puddephatt (2009: 3) one of the key obstacles to good governance is an asymmetry in information between public officials and the public and ATI legislation is the principal means for correcting this asymmetry. ATI legislation is based on the fundamental premise that all information held by governments and governmental institutions, in principle, belong to the public domain and may only be withheld if there are legitimate reasons for not disclosing it. An informed and active civil society is certain to play an active role in the realization of sustainable development. This paper, therefore, argues that free access to information expands the knowledge base and resources in the policy-making process and helps in effectively monitoring and implementing policies by promoting transparency and accountability, which are necessary to good governance and sustainable development.

## **2. The sustainable development concept**

Sustainable development has become a much used phrase in international circles, though it is a concept fretted with ambiguities, or even time frame (for example, what is a sustainable period?). Zencey (2010) is bold enough to say that the term has become so widely used that, “it is in danger of meaning nothing” because it has been applied to all manner of activities in an effort to give those activities the gloss of moral imperative, the cachet of environmental enlightenment. It is argued further that, “sustainable” has been used variously to mean “politically feasible”, “economically feasible,” “not part of a pyramid or bubble,” “socially enlightened”, “consistent with liberal principles of justice and fairness”, etc. According to the International Institute for Sustainable Development (IISD: 1995) the improvement of economic efficiency, the protection and restoration of the environment and the enhancement of the social well-being of people form the basic tenets of sustainable development. United Nations Education, Scientific and Cultural Organization (UNESCO) regards sustainable development as an *evolving* dynamic concept with many dimensions and many interpretations and appears to support the contention that there is no need for one agreed definition but rather it should be seen as a “process of change that is heavily reliant on local contexts, needs, and priorities” (UNESCO: 2008).

Schwabe (2002: 1) regards sustainable development as an integrated process for decision-making that requires information for it to be accomplished. Thus wherever and whenever human kind needs to take an informed decision, the importance of information is upheld. Inherent in the concept of sustainable development, therefore, are aspects like democratic values, community participation, global collaboration and strong leadership. Anywhere democratic values are accepted, free access to information becomes the norm because democratic values are buttressed, among others, on transparency, accountability, openness, rule of law and public participation in government.

Despite the above, a working definition is needed to give a framework to how information access can promote sustainable development. The 1987 UN Brundtland Report (1987: 43) offered one widely accepted definition of what sustainability means, “...development that meets the needs of the present without compromising the ability of future generations to meet their own needs”, focusing on the improvement of quality of life for all people, without increasing the use of natural resources beyond the capacity of the environment to supply them inexhaustibly. As pointed out by Arko-Cobbah (2006: 11) the concept seeks to address the

need of finding innovative ways to change or put in place institutional structures, and influence individual behaviour for the ultimate good of the present and future generations.

### **3. The issue of Africa's sustainable development**

The New Partnership for African Development (NEPAD) has embraced the need for sustainable development with vigour and, with international collaboration, has formulated actions that need to be taken to that effect. The importance of information is being accepted more and more as a critical component in being able to understand the integration of the environment and development. Information is further needed to implement and monitor sustainable development, thus the need for ATI legislation. The study of Africa's sustainable development is, unfortunately, plagued with problems and it is worthwhile having a look at some of the basic issues.

#### **3.1 Africa's dismal development record**

The President of Liberia has described the past 30 years as disastrous for most of the people of Africa, noting that whereas the Asian Tigers recorded some of the fastest growth rates and reductions in poverty in world history, most of Africa remained mired in poverty. As a whole almost all sub-Saharan African (SSA) countries recorded average annual per capita growth of about zero, between 1970 and 2000 (Sirleaf and Radelet 2008: 1). Africa's impoverishment can, mainly, be attributed to its difficult geographical circumstances, disease, the slave trade, colonialism, external political and economic factors, and poor governance or misrule. Geographically, sixteen SSA countries are landlocked and inaccessible to the coast, thus posing a form of barrier to international trade. Several countries have large tracts of desert making farming difficult or outright impossible due to lack of rain and top-soil. Where there is rain, it tends to be torrential, washing nutrients out of soils and ruining roads and other infrastructure.

Secondly, African countries are susceptible to virulent diseases as compared to other regions in the world. Diseases like HIV/AIDS, tuberculosis and malaria have taken their toll on the African population, contributing to shorter life expectancies and lower worker productivity. Thirdly, external political and economic factors like the slave trade in the 1700's and colonialism in the 1800's have also contributed immensely to Africa's lack of development and sustainable growth. According to Schwabe (2002: 8) the slave trade saw the forced removal of more than 22 million people from the continent, resulting in the significant destabilization of certain areas and, in some instances, the total disintegration of societies. Moreover, the Berlin Conference of 1884 paved the way for colonialism in Africa with nearly the whole continent partitioned and being subjugated by European countries. The colonialists did not only extract massive amounts of resources from Africa, they invested little in schools and other infrastructure and perhaps, most importantly, failed in building capable political institutions that will drive economic and social development. Whether, after more than fifty years of independence, Africa can justifiably blame colonialism for all its woes is debatable. Curiously enough, the politicians who gleefully cite the ills of colonialism for Africa's worsening woes are conspicuously quiet about the part they have played in, at least, accentuating these woes through their own misgovernment and corrupt practices. After independence, as observed by the President of Liberia, many African countries became pawns in the Cold War, with the United States and the Soviet Union often more interested in securing allies at any cost (including supporting some of the worst dictators on the continent)

rather than in building a sustainable foundation for development (Sirleaf and Radelet 2008: 2).

On the economic front, too, Africa's dependency on raw material exports has made many countries continuously vulnerable to commodity price shocks that are beyond their control. Developed countries are very cautious about permitting African countries to export their commodities directly into their own domestic markets. The use of agricultural subsidies is a good example of how the developed countries are manipulating world trade to the detriment of African countries. Moreover, success in both domestic and international trade depends heavily on market information and the capacity to utilize it. African countries unfortunately, usually, do not have timely access to market information, which can be attained through a good socio-economic infrastructure and networks. Again, strangulating external debts are some of the factors impeding Africa's sustainable development. Majority of African countries use their export earnings to service debts. It needs to be added, painfully though, that some of these debts are spurious, and tainted with corruption and prestige projects with none or little substantial benefit to the ordinary citizen.

Lastly, and perhaps the most important of all, is poor governance and misrule that has plagued Africa for decades. Totalitarian regimes became established or entrenched in most African states after independence, especially from the 1970s through the mid-1990s resulting in vicious cycle of economic decline, reduced capacity and poor governance, and in some countries resulting in prolonged and deep civil war, conflict and violence. Corruption, patronage, and the absence of rule of law have allowed leaders to abuse their power, with resources being used to enrich a small elite, leaving most people in deep poverty (Sirleaf and Radelet 2008: 2).

### **3.2 Globalization and Africa's sustainable development**

Debate of globalization is fundamentally about who is running the global economy and in whose interest. While most economists, finance officials and central bankers agree that the benefits of global market-based integration can more than offset the costs for the poorest countries and the poor within countries, most social activists in contrast point out that so far, this potential has not been realized. This is precisely where Africa finds itself in the global debate. The Economic Commission for Africa (ECA) has pointed out in a number of occasions that Africa's economy has largely been by-passed by the increase in global trade, investments, and financial flows and this has, mainly, resulted in minimizing the options for increased diversification of traded goods and services (ECA 2000: 2). Similar sentiment has been expressed by the United Nations Development Programme (UNDP). According to the UNDP(2000) report, twenty-two sub-Saharan African countries had lower per capita incomes in 2000 than they did in the period between 1975 and 1985, with industries of a number of African countries suffering significant losses due to cheap imports of commodities like textiles triggered by premature and indiscriminate free trade (Mengisteab 2008: 2). The real challenge, therefore, is how to translate the potential benefits of globalization into real, tangible gains for the poorest of the world. This has led some financial officials like the former South Africa's Finance Minister, Trevor Manuel (2004: 2) to conclude that the globalization challenge can tip states in the wrong direction, away from good governance, effective regulation, pro-growth policies, among others, resulting in the further weakening of the already inadequate social policies and institutions. How does Africa take advantage of globalization? Court (1998: 1) suggests the following:

- Effecting stable macroeconomic foundation by undertaking sound fiscal and monetary policies, including realistic exchange and interest rates, as well as maintaining an outward oriented trade and investment strategy, paying attention to social and development sectors, such as basic, secondary and technical education, health, and infrastructure;
- Liberalizing trade, though it should be done with care to avoid worsening the economic and social situation, since certain aspects of trade liberalization, like lifting protectionist policies, can lead to loss of revenue and the destruction of potentially competitive local infant industry by cheap imports;
- Mainstreaming regionalism with the hope of enlarging the economic space including the extension and connection of Africa's physical space with efficient regional infrastructures, integrating the production structure of key goods and services, and integrating markets through trade liberalization, monetary harmonization, and facilitating private sector business interests;
- The need for Africa to focus on the primary sector, where it has competitive advantage.
- However, it needs to be noted that prudent management of macroeconomic policies alone may not result in economic growth. They need to be supported by microeconomic policies that facilitate adjustment through the provision of social capital and opening up of economic opportunity. Furthermore, trade liberalization, if not handled with care, may become dysfunctional and even worsen the economic and social situation since certain aspects of trade liberalization, like lifting protectionist policies, can lead to loss of revenue and the destruction of potentially competitive local infant industry by cheap imports. For example, the textile industries of certain African countries like Nigeria, Mozambique, Malawi, and Tanzania have been devastated by cheap imports triggered by premature and indiscriminate free trade (Mengisteab 2008: 2).

Again, the suggestion for Africa to concentrate on primary products of which it has got the so-called competitive advantage cannot easily go unchallenged. Agriculture, in Africa, depends mainly on the vagaries of weather. Furthermore, the impunity with which the developed world dictates the market prices of agricultural produce makes it disincentive and frightening to encourage it to be the main stay of Africa's economic growth. Moreover, land issues in a number of African states.

Again, one of the globalizing mechanisms used to address development economies' fiscal problems has been the so-called structural adjustment programme. The policy is intended to restrain the growth of money supply so as to stabilize prices and foster a climate conducive for investment. Regrettably, where the level of human development and infrastructure are woefully lacking, as it is the case of Africa, reduction of public expenditures, the main intended purpose of structural adjustment programmes, is likely to limit investments in human and infrastructure developments, thus curtailing the long-term prospects for overall development of African economies.

Globalization has also failed to address some of the serious external constraints facing Africa like its ever-increasing debt burden. Of course one should salute the developed countries who have written off some of these debts, especially, under the principle of High Impoverished Countries (HIC).

Another aspect of globalization that irritates African politicians is loss of sovereignty both at the level of regional integration and the overall global economy. The criticisms (or is it fear?) of the loss of national sovereignty for the sake of regional integration appear to be lop-sided, when one considers the achievements brought about by the European Union. As Manuel (2004: 2) has pointed out, globalization can be addressed in regional global institutions in such a way as to increase the power of states and better reflect the social and economic preferences of the African peoples.

### **3.3 NEPAD and Africa's sustainable development**

The New Partnership for Africa's Sustainable Development (NEPAD) is a document for Africa's socio-economic development promulgated by African leaders. It aims to promote Africa's sustainable development, eradicate poverty, and halt the marginalization of Africa (NEPAD 2001: xxiv). NEPAD emphasizes African ownership of its own development, whilst assuming that developed countries will provide the necessary funding. From its inception, NEPAD emphasized its goals unambiguously, that is, poverty eradication, sustainable growth and development, and an active participation in the global economy and politics. It also recognizes Africa's radical and widespread problems, such as debt and gloomy social indicators and further states the commitment of African leaders to take charge of conflict prevention, management and resolution, democracy and human rights, education and technical training, and health services, among others. Amuwo (2003: 1) has described NEPAD in blunt terms as "yet another initiative by Africa's Heads of State and Governments intended to reverse, for good, the beggarly and highly embarrassing image of the continent through a 'sustained engagement' with the developed world".

Various criticisms have been leveled against NEPAD, among them, for ignoring the role the developed countries of the North have played in Africa's impoverishment and to stress to these countries the recognition of the principle of 'pay-back-time'. As argued by Ali Mazuri (1999), whilst the continent helped to develop Europe through labour, territory and extractive *imperatives* of the colonial era, every stage of Africa's contribution to globalization was also a stage in its own marginalization. Amuwo (2003: 2), for instance, therefore accuses NEPAD for its inability or is it unwillingness (or both?) to boldly account for Africa's under-development as a function of both the results of colonialism/structural imperialism and bad governance of many of Africa's political leaders. It is indisputable that structural adjustment programmes had worsened the impoverishment of African states and have, therefore, undermined African leaders' capacity to deal with political discontent.

The NEPAD document can also be criticized for its mere rhetorical recognitions and explanations of Africa's current woes but lacking in practical and independent development programmes to address those woes. There is no committee charged with funding and monitoring practical fieldwork, thus the document may be regarded as another verbose initiative that lacks concrete action.

Another flaw in NEPAD is its failure to adhere to its own promise of insisting on good governance by African leaders through its African Peer Review Mechanism (APRM). The autocratic and non-democratic rule of Zimbabwe's Robert Mugabe, for example, has proved how toothless and inconsistent the APRM can be, in spite of the various promises and pronouncements in the NEPAD document. The situation has been aggravated by the voluntary nature of the APRM, making African rogue rulers get away with corruption and misrule by not submitting themselves to peer review. The so-called principle of non-

interference in the internal affairs of fellow African states, which became the bane of the life of the erstwhile Organization of African Unity is apparently reflected in the ineffectiveness of the APRM.

#### **4. The public's right to know and democratic governance**

Access to information (ATI) is, generally, regarded as the ability of the citizen to obtain government-held information. That is “real” information useful and practical, and capable to help the citizen to make an informed opinion on an issue and not simply a barrage of government propaganda. Free access to information, apart from being an essential aspect of democratic governance, is also regarded as a fundamental right of the individual. Without the freedom to think one's thoughts, conceive ideas, formulate views and express them freely, there is no possibility of democratic governance, and thus good governance (Byrne, 1999). As declared in Section 1 of Article 19 of the Universal Declaration of Human Rights (1948), “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media regardless of frontiers”. There are other more compelling reasons for increasing acceptance of freedom of information as a human right and a cursory look of them will suffice.

##### **4.1 Utilitarian goals underpinning freedom of information**

ARTICLE 19, *Global Campaign for Free Expression* (1999: 1) rightly points out that information “is the oxygen of democracy” and, thus, an essential part of good governance, and laments that most governments prefer to conduct their business in secret. Some of the acceptable goals of ATI as stated by Mendel (2003: iii) are the following:

- Since democracy is fundamentally about the ability of citizens to participate effectively in decision-making that affects them, both through elections and after elections, the electorate must have easy access to information.
- Democratic governance is also buttressed on accountability and good governance with the public having a right to subject the actions of their leaders under scrutiny and to engage in full and open debate about those actions. This depends on access to information about various aspects of governance like the state of the economy, social systems and other matters of public concern.
- ATI serves as a bulwark in combating corruption and malpractices in government, making it possible for CSOs and investigative journalists, in particular, to place under the glare of publicity graft and wrongdoings by government officials. The proverbial, “A little sunlight is the best disinfectant” of Justice Louis Brandeis (1914: 92), readily comes to mind.
- Apart from political benefits associated with ATI legislation, the right to information pertaining to the individual in its private capacity is, equally, important. It contributes to one's basic human dignity, and helps in personal decision-making like medical treatment and financial planning.
- ATI also facilitates effective business practices, like tendering for public contracts.

##### **4.2 General principles underlying access to information legislation**

ARTICLE 19 (1999) has come out with the following as the best practice standards that should underpin ATI legislation:

- ATI legislation should be guided by the principle of maximum disclosure;
- Public bodies should be under an obligation to publish key information;
- Public bodies must actively promote open government;
- Exceptions should be clearly and narrowly drawn and subject to strict ‘harm’ and ‘public interest’ tests;
- Requests for information should be processed rapidly and fairly and an independent review of any refusals should be available;
- Individuals should not be deterred from making requests for information by excessive costs;
- Meetings of public bodies should be open to the general public;
- Laws which are inconsistent with the principle of maximum disclosure should be amended or repealed;
- Individuals who release information on wrongdoing- whistleblowers- must be protected.
- Tension usually exists between the right of access to State-held information while, simultaneously, exempting certain records on the basis of state interest, which grants limited scope of exception, shows. In order to prevent a possible deadlock, Martin and Feldman (1998: 2) have suggested the following:
  - Acknowledgement in law of the need for limitation of access on the basis of the overall state interests;
  - Publication of guidelines by state agencies informing the public of details concerning the applicable rules as to how to access information from these bodies, including the official to be approached for the required information and the possible grounds for refusal;
  - Respect of information with regard to individual privacy and data protection;
  - Procedure defining review and appeal with regard to refusal of access.
- In spite of the apparent plausible nature of the suggested principles of Martin and Feldman aimed at lessening the tension between State-held information and the right of access to such information by the citizenry, they are fraught with problems. For example, as pointed out by Arko-Cobbah (2008: 182), defining the ‘state interest’ tends to be more subjective and often evokes emotive interests, which are easily exploited by public officials who, unfortunately, regard ATI as unnecessary interference in the smooth working of government.

#### **4.3 Basic conditions necessary for access to information**

- For Africa to successfully promote information access regime, certain preconditions are necessary:
  - Political stability, that makes governments to enjoy sufficient confidence that they are not averse to openness or citizen participation in governmental decision-making;
  - An independent judiciary system that is impartial and informed, fearless to pass judgments that may be contrary to the interests of the government, something lacking in a number of states in Africa;
  - Communications infrastructure, which does not only refer to physical needs established and well maintained for both travel and telecommunications, like information telecommunications technology (ICT) but also personal development that takes the form of information literacy;

- Library and information services, including the press media, which are able to bring the activities of the government into the glare of publicity and information accessibility.

#### **a. Civil society and access to information**

The idea of civil society has become prominent in political and developmental vocabulary these days. This is mainly due to successive waves of democratization, beginning in Latin America and the Central and Eastern European countries and spreading across the developing world, including Africa. Both political theorists and practitioners have come to the realization that it is not state institutions and policy that ensure good governance but the *third realm*, civil society. The term has become a notoriously slippery concept that is used to describe different ideological persuasions, supported by deeply ambiguous evidence and coloured with many questionable assumptions, argues Arko-Cobbah (2006: 349). The paper will, however, not like to delve into the polemics involving the concept. Nevertheless, whether civil society is classified into the associational, normative or the public sphere models as suggested by (Edwards 2004) the concept plays a very remarkable role, especially, when it comes to issues involving the public sphere in Africa.

Public sphere is regarded by Salih (2003: 3) as the space where civil society strives to influence how public goods are controlled, managed and distributed. It is the domain where multiple stakeholders (social forces, interest associations, private sector operators, religious organizations, pressure groups etc.) interact to ensure that government is responsive to the concerns and legitimate demands of the governed. Of late CSOs, through the ATI legislation, in particular, are taking active interest in governance issues in a number of developing countries including Africa. For instance CSOs have built effective capacities to analyze and influence public budgets so as to promote transparency and accountability in governance (Ramkumar and Krafchik 2006: 3). In South Africa, for example, the Public Service Accountability Monitor (PSAM) a research and advocacy organization, works closely with the legislature to track government agency responses to financial control weaknesses and instances of financial misconduct and corruption contained in the Auditor-General's report. Thus a vigilant civil society having free ATI can contribute to the achievement of social development programmes by limiting corruption and strengthening the accountability of responsible agencies. However, the perception by many African governments that CSOs are sympathizers of opposition political parties has in some cases bred mistrust and lack of cooperation on the part of the government.

### **5. Access to information regimes in Africa**

In spite of what is generally believed to be an 'explosion' in the passage of ATI legislation in the world, with more than 70 developing countries joining the fray in the last decade, Africa has conspicuously been absent with its leaders paying lip service, at best, to ATI. Before discussing selected ATI regimes in Africa, it is necessary to have a brief look at some of the international bodies whose responsibility for advancing and protecting human rights have authoritatively recognized the fundamental and legal imperative of the ATI, as well as the need for effective legislation to gain respect for that right in practice.

## 5.1 Multilateral institutions and access to information regimes in Africa

ATI is regarded by the United Nations (UN) as a fundamental human right and Section 1 of Article 19 of the *Universal Declaration of Human Rights*, as adopted by the UN (1948) reflects this view as it affirms that: “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media regardless of frontiers”. In his 1998 Annual report, the Special Rapporteur on Freedom of Opinion and Expression established by the UN Commission on Human Rights made it very clear that the right to freedom of expression includes the right to access information held by the State and his views were welcomed by the Commission.

Although the importance of ATI has been recognized by the Commonwealth for over two decades ago, in March 1999, the Commonwealth Secretariat brought together a Commonwealth Expert Group, which included some African countries, to discuss the issue of ATI and set out a number of principles and guidelines to that effect. These principles and guidelines were adopted by the Commonwealth Law Ministers in May 1999.

Developments in ATI legislation in Africa have rather been modest since the African Commission on Human and Peoples’ Rights adopted a *Declaration of Principles on Freedom of Expression in Africa* at its 32nd Session in October 2002. The Declaration states, *inter alia*, that, “Public bodies hold information not for themselves but as custodians of the public good and everyone has a right to access this information..”. Decades earlier, the Organization of African Unity (predecessor to the African Union) has come out with the African Charter on Human and People’s Rights, which upheld the rights of access to information. Unfortunately, in spite of this laudable declaration, few African countries have taken the bold step of enacting ATI legislation.

## 5.2 Review of access to information regimes in Africa

In Southern Africa, according to Dimba (2008), six Southern African Development Cooperation (SADC) countries have expressly guaranteed the right to information within their constitutional framework, in varying degrees. They are South Africa, Malawi, Mozambique, the Democratic Republic of Congo (DRC), Tanzania and Madagascar. Eight other SADC countries have merely protected this right within the context of the broader right of freedom of expression which, normally, includes the right to seek information. These are Botswana, Lesotho, Angola, Zambia, Mauritius, Zimbabwe, Namibia and Swaziland. In spite of Zimbabwe’s so-called *Access to Information and Protection of Personal Privacy Act (AIPPA)*, it fails to stand up as a genuine ATI legislation due to its numerous and broad exemptions. Furthermore, various draconian provisions in the legislation that have seen journalists and human rights activists being thrown into jail or being subjected into various forms of human rights abuses makes AIPPA spiteful.

In East Africa, it is only Uganda that stands out creditably for having the right of access to information, specifically, enshrined in its constitution (Section 41) and has supported it with a legislation that gives effect to that right, though regulations are yet to be passed in order to bring the legislation into force. Draft bills on FOI legislation are at advanced stage in Kenya and Tanzania. Article 29 of the Ethiopian Constitution expressly establishes right to information, though within the broader framework of freedom of the press, mass media and artistic creativity (Dimba 2008).

In the West African sub-region, the constitutions of Ghana, Cameroon and Senegal contain provisions that guarantee ATI while in Nigeria and Sierra Leone the right is established as part of the overall freedom of expression clause under the constitutions. The situation in Ghana is interesting. In February 19 2003, Ghana developed what it became known as Ghana Poverty Reduction Strategy (GPRS) in order to meet a World bank/International Monetary Fund planning requirement. As part of the conditionality, the country set the goal of adopting ATI legislation by 2004. The strategy states, among others, that: “Access to government information is inhibited by entrenched attitudes and exacerbated by official secrets legislation dating back to the colonial era” there was, therefore, “The need for a Freedom of Information law is paramount” (World Bank 2003: 122). Nigeria moved a step closer to establishing a comprehensive ATI legislation in 2007, which was passed by both houses of parliament but could not get the then Presidential assent to make it into law (Dimba 2008). Hopefully under President Goodluck Jonathan’s government approval will be given so as to make it into law. Liberia tabled its draft bill before parliament in April 2008 and with the democratic credentials of the country’s President, Sirleaf-Johnson, it is hoped there will be no obstacles in passing it into law.

The situation in the Northern African region appears dim. Apart from Morocco that has the right to “freedom of opinion and freedom of expression in all its forms” (whatever that means) established in its constitution, the country is working on a draft bill that will eventually see to the passing of ATI legislation.

One should caution, at this stage, that ATI legislation *per se* does not guarantee that state-held information will easily be in the public domain and in promoting an open and transparent society. Such laws, in practice, involve bureaucratic, cumbersome and, to some extent, expensive process to be undertaken by the citizen in order to obtain information that is legally in the public domain and should be made public.

### **5.3 Civil society, internet and access to information in Africa**

The internet and related new media technologies has been shown to hold possibilities for other partners in the democratic process, such as social movements, activist groupings or minority groups ( Agre: 2002). The internet is also used by these groupings to further their causes and empower them to play a more pertinent role in the democratic public sphere. As a globalizing medium, it further affords these CSOs the opportunity to be imbedded in global networks and to draw support from similar groupings worldwide whilst still been used to further local issues. At the root of these performances is its veracity in giving access to information in a virtual manner.

However, as observed by Wasserman and De Beer (2003) in Africa, the slowness of the development of information communications technology (ICT) due to economic, cultural, social, and political factors, in general, is seriously hampering its efficacy. The question is particularly pertinent in the light of the important role that civil society has to play in the formulation of policies aimed at African development. The same observation was made by the African Civil Society Organization (ACSO) in its Maputo Declaration released in July 2003 in which it stated as its vision to have a “vital role to play in the formulation, implementation, monitoring and evaluation of policies and programmes for the advancement of development in Africa” (ACSO: 2003).

## 6. Access to information and socio-economic justice in Africa

These days, the overarching priority for the United Nations (UN), African governments and the international community in general is focused in achieving the Millennium Development Goals (MDGs) and difficulties in doing so. This has, therefore, broadened the discussion with regards to elements of the development process that need to be taken as of great importance. Accordingly, the fundamental right to freedom of expression and its adjunct, ATI, has become pivotal for the achievement of sustainable and human development, poverty eradication, good governance, peace and reconciliation, environmental sustainability, and respect for human rights (UNESCO 2008: 2). The big question is, how does ATI influence sustainable development and the eradication of poverty in Africa?

### 6.1 Access to information as a critical input in political participation

At the 1992 Earth Summit in Rio de Janeiro, Principle 10 of the *Rio de Janeiro Declaration* put forward the following proposition:

- That every person should have access to information about the environment;
- Opportunities to participate in the decision-making processes affecting the environment;
- Access to redress and remedy (**Voice and Accountability, 2004**)\*

These three rights, according to The Access Initiative (TAI) are often referred to as the *Access Principles*.

ATI requires governments to provide their people and their freely chosen representatives with all relevant information concerning governmental activities and services as part of the political rights of the people. In Africa and other developing world the policies, practices, and institutions of political life tend to exclude a majority of citizens, especially, the poor and socially marginalized, from full participation in public decision-making and other political rights. Generally, political rights are the right and opportunity to take part in the conduct of public affairs, directly or through freely chosen representatives. This includes the right to vote and to be voted for in the country's legislative institutions, to have views represented before decision-making bodies, and the right of equal access to justice. Lack of political rights and freedoms has, therefore, proved to be both a cause and a consequence of poverty because socially and politically excluded people are more prone to become poor, and the poor are more vulnerable to social exclusion and political marginalization. In participation of citizens in the decision-making process, the UNESCO SHS (2009) distinguishes four stages:

- **Preference revelation**, which is the initial stage of policy formulation where people are empowered to express their preferences, or the objectives they want to achieve;
- **Policy choice**, the stage where policies are formulated and decisions taken with regard to the allocation of resources among alternative uses;
- **Policy implementation**, the stage of putting into practice decisions made to effect the realization of agreed policy choice(s).
- **Monitoring and evaluation**, which is the final stage in the policy process, the stage where the State and other office-bearers are held accountable for their obligations.

It is the considered view of the author that the most critical stage in the policy-making process is the *policy choice* because as different patterns of allocating resources serve the interests of different groups differently, a conflict of interest is bound to arise. The group that wins in the conflict resolution is usually the one that participates effectively in the policy formulation. It is here that the poor is likely to be marginalized since they do not possess enough political or financial clout to champion their interest. The suggestion is for human rights advocates to ensure an institutional framework that allows the poor to effectively

participate in the policy formulation. If the poor are encouraged to participate in the process of setting priorities and given the opportunity to make a case for those options that best serve their interest, the stage is set for sustainable development and the elimination of poverty. This can be achieved if there is transparency in the policy-making process with unfettered access to information as its linchpin.

Again, the poor should also be encouraged to participate in the process of policy implementation and monitoring, preferably through civil society organizations or through an active local government representation. The current lack of service delivery protests in South Africa can best be traced to lack of policy implementation and monitoring, and the non-involvement of the poor in the process. It is even argued that at the community level, the presence of the poor is not just existent or where it exists its voice not heard or is ignored, leaving the poor no option but violent protests. It is simply a common sense that people affected by desired policy are afforded the opportunity to monitor and assess its effect and to take part in the procedures for holding the implementers of the policy accountable. Certainly, this cannot take place if the intended beneficiary of the policy is denied access to information, which is the *sine qua non* in the monitoring and evaluation process.

## **6.2 Access to information legislation and socio-economic and cultural rights**

Economic, social and cultural rights (ESCR) are considered to be positive rights because they generally require some positive action on the part of the government and the primary international treaty governing them is the International Covenant on Economic Social and Cultural Rights (ARTICLE 19 and ADC 2007: 13). What constitute ESCR are the right to work, the right to social security, the right to adequate food, the right to adequate housing, the right to health, the right to a healthy environment, and the right to education. The combination of these can be classified as sustainability development, a major governance issue confronting African governments. The enforcement of ESCR and consequently their justiciability have been questioned both at the international and domestic level and both local and global CSOs are at loggerheads with various governments on this issue. Despite the interrelationship between ESCR and civil and political rights there is still scepticism regarding the status of ESCR as real rights. Some scholars and governments argue that ESCR are not human rights, and others that they are human rights but are non-justiciable because civil and political rights grant negative rights and thus, impose negative obligations, while ESCR guarantee positive rights and impose positive obligations on governments. The imposition of positive obligations upon States, as pointed out by ARTICLE 19 and ADC (2007: 14), implies the adoption by governments of programmes to address social policy questions which, unfortunately, require government expenditure. The paper does not intend to enter into any polemics over the status of ESCR. But one cannot but agree with Barash and Webel (2002: 485) that, "*It is very difficult to be tranquil, calm, or satisfied when denied such basic needs as food, clothing, shelter, education, and medical care...[and when people] perceive that their economic conditions are far inferior to those of others*". Archbishop Desmond Tutu is on record of having warned that unaddressed social and economic grievances are a "powder keg of resentment and frustration" that can threaten social order (Muvingi 2009: 163).

It is, nevertheless, instructive for one to realize that the right to access information is not only important in order to participate effectively in an open, public debate about issues and interests affecting people's life, but it is also useful to exercise other rights ESCR. Furthermore, among the varied constitutional rights, ATI imposes the most clear-cut

obligations on governments both negative and positive. As a negative obligation, the government must *respect* the right by not violating it directly through legislation, policies, judicial decisions or actions of public officials. As a positive obligation, the government must take direct, affirmative action, possibly to *protect* the right by preventing others from violating it or to *fulfill* the right by *providing* information in circumstances of particular public interest (ARTICLE 19 and ADC 2007: 15). ATI, therefore, is not only a right in itself, but a tool for exercising other rights. For example, if a citizen wishes to know if the government is developing policies to counter discrimination in access to education, it is necessary to have access to certain information related to those policies. Again, in order to know if the government is initiating a campaign that aims at combating HIV/AIDS, for example, it is necessary to know how public policies are being implemented. In other words, we need information to monitor the delivery of political commitments to uphold our fundamental rights. Jagwanth (2002: 13) provides a meaningful summary of how the right to access public information is related to other rights thus:

- It is a component part of other rights (e.g. freedom of expression, administrative justice, and the right to fair trial);
- It gives effect to and protects rights (e.g. clean environment);
- It assists in the enforcement of rights (e.g. right to equality); and
- It prevents further violations by opening up activity to constant scrutiny.

## 7. Conclusion

Africa's quest for sustainable development has been a tortuous one. Political instability, totalitarian and corrupt regimes, civil and inter-state wars, strangulating international debts, trade imbalances and abject poverty have characterized Africa's desire for sustainable development. The grand re-awakening of the various CSOs around the continent and global support and pressure, are gradually having an impact on its developmental efforts. Democratic governance, with its insistence on openness, accountability and rule of law has aroused the interest of CSOs to press for a say in governance. This has led to a greater interest in ATI legislation and various African governments are under pressure to respond accordingly. Socio-economic rights are irresistibly being demanded by the marginalized under the banner of civil society and the support of international community. One can, therefore, say with confidence that there is a ray of hope.

## 8. References

African Civil Society Organization (ACSO). 2003. The Maputo Declaration. 4-12 July.

Agre, P. E. 2002. Real-time politics: The Internet and the political process. *The Information Society*. 18 (31) pp311-331.

Amuwo, K. 2003. Globalization, NEPAD and the governance question in Africa, *Africa Studies Quarterly*. Vol. 6 (3). Available at: <http://www.africa.ufl.edu/asq/v6/v6i3a4.htm>

Arko-Cobbah, A. 2006. Civil society and good governance: Challenges for public libraries in South Africa. *Library Review*. Vol 5 (6) pp349-362.

Arko-Cobbah, A. 2008. The right of access to information: Opportunities and challenges for civil society and good governance in South Africa. *IFLA Journal*. Vol. 34 (2) pp180-191.

ARTICLE 19: Global Campaign for Free Expression. 1999. *The public's right to know: Principles on freedom of information legislation*. Available at: [www.article19.org/work/regions/latin-america/FOI/english/elements/index.html](http://www.article19.org/work/regions/latin-america/FOI/english/elements/index.html)

ARTICLE 19 and Asociacion por los Derechos Civiles (ADC). 2007. *Access to Information: An Instrumental Right for Empowerment* Available at: <http://www.article19.org>

Barash, D. P. and Webel, C. P. 2002. *Peace and Conflict Studies*. Thousand Oaks, CA: Sage.

Brandeis, L. 1914. *Other People's Money, and How the Bankers Use It*. New York: Frederick A. Stokes Co.

Brundtland Commission Report. 1987. *Our Common Future. United Nations World Commission on Environment and Development*. Available at: [http://en.wikisource.org/wiki/Brundtland\\_Report](http://en.wikisource.org/wiki/Brundtland_Report)

Byrne, A. 1999. 'See Librarian': University libraries and intellectual freedoms. *Australian Academic Research Libraries*. Vol.30 (2). Available at: <http://archive.ifla.org/faife/papers/Others/byrne2.htm>

Court, J. 1998. *Globalization and Africa*. Available at: <http://www.unu.edu/hq/ginfo/media/Court.html>

Dimba, M. 2008. Access to information as a tool for socio-economic justice. *A presentation on behalf of the Open Democracy Advice Centre (ODAC) on the occasion of the international conference on Right to Public Information organized by the Carter Centre 26-29 February 2008, Atlanta, Georgia, USA*.

Edwards, M. 2004. *Civil Society*. Cambridge: Polity Press.

Globalization, regionalism and Africa's development agenda. 2000. Economic Commission for Africa. *Paper prepared for UNCTAD X February 12-19, 2000, Bangkok, Thailand*.

International Institute for Sustainable Development (IISD). 1995. *Sustainable development toolkit*. Available at: <http://iisd1.iisd.ca/educate/learn.htm>

Jagwanth, S. 2002. The right to information as a leverage right. In *The Right to Know, The Right to Live: Access to Information and Socio-Economic Justice*. Calland R. and Tilley, A. (ed). Johannesburg: Open Advice Centre.

Martin, R. and Feldman, E. 1998. *Working Paper: Access to information in developing countries: a study prepared for Transparency International*. Available at: [http://legacy.transparency.org/working\\_papers/martin-feldman](http://legacy.transparency.org/working_papers/martin-feldman)

Manuel, T. 2004. *Globalization and the African State. Inaugural Global Economic Governance Lecture, Oxford University, 8 March 2004*.

Mazuri, A. 1999. From slave ship to space ship: African between marginalization and globalization. *African Studies Quarterly*. Vol. 2 (4). Available at: <http://www.hartford-hwp.com/archives/30/073.html>

Mendel, T. 2003. *Freedom of Information: A comparative legal survey*. New Delhi: UNESCO.

Mengisteab, K. 2008. Globalization in Africa-Globalization's implications for Africa. Available at:  
<http://216.239.59.104/search?q=cache:pjToVdQfifQJ:science.jrank.org/pages/9529/G1...>

Muvungi, I. 2009. Sitting on powder kegs: Socioeconomic rights in transitional societies. *The International Journal of Transitional Justice*. Vol.3 pp163-182.

NEPAD. 2001. *New Partnership for Africa's Development (NEPAD), October 2001*,. Abuja, Nigeria.

Puddephatt, A. 2009. Exploring the role of civil society in the formulation and adoption of access to information laws: The cases of Bulgaria, India, Mexico, South Africa, and the United Kingdom : Access to Information Working Paper Series. Washington, DC: The International Bank for Reconstruction and Development.

Schwabe, C. A. 2002. Information: The foundation of sustainable development. Cape Town: Human Sciences Research Council.

Sen, A. 2000. *Development as Freedom*. New York: Alfred A. Knopf.

Sirleaf, E. J. and Radelet, S. 2008. The good news out of Africa: democracy, stability, and the renewal of growth and development. *Centre for Global Development*. Available at:  
[www.cgdev.org](http://www.cgdev.org)

United Nations Development Programme (UNDP). 2002. *Human Development Report 2002*. New York and Oxford: Oxford University Press.

United Nations Education Scientific and Cultural Organization (UNESCO). 2008. Freedom of Information and sustainable development: Sealing the link. *Final Report of the UNESCO Experts Meeting held in Paris on March 2008*, Drafted by Caroline Millet.  
*Universal Declaration of Human Rights* .1948. New York: United Nations. See URL:  
<http://www.udhr50.org/UN/default.htm>

Wasserman, H. and De Beer, A. S. 2003. E-governance and e-publicanism: Preliminary perspectives on the role of the internet in South African democratic processes. *Paper presented at the convention of the Association for Education in Journalism and Mass Communication (AEJMC), Kansas City, USA, August*.

Zencey, E. 2010. Theses on sustainability. *Orion Magazine*, May/June 2010.