

Actualising Socio-Economic Rights for Sustainable Development in Kenya

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Abstract

This paper argues that social and economic rights are an important part of the sustainable development agenda and as such, there is need for increased efforts and investment in the quest for socio-economic development as a prerequisite for the realisation of sustainable development in Kenya. It calls for empowerment of the people in line with the constitutionally guaranteed social and economic rights which must be actualised through the concerted efforts of all stakeholders.

1.0 Introduction

The last decade and a half has seen successive governments mostly seeking to improve the national economic status through major infrastructural investments which are geared towards impacting on the lives of their people. Such governments thus put in place measures, programmes and plans that are geared towards meeting their election promises. What has however been consistent with each successive government is the limited investments on socio-economic development and investment on the ordinary people, perhaps with attempts directed at education and health. However, even in these two sectors, the investment has not been sufficient. Despite the laudable development in terms of infrastructures, poverty levels have not been reducing at acceptable rates. If anything, it has increased for certain classes of people in society.¹ This paper discusses some of the ways in which the actualisation of social economic rights for sustainable development can be fast tracked through the combined efforts of all the relevant stakeholders.

2.0 Socio-Economic Development as Part of Sustainable Development

Socio-economic rights are considered to be a central feature of the sustainable development agenda as evidenced by Agenda 2030 for sustainable development agenda as well as other derivative instruments. It is meant to give the sustainable development agenda an anthropocentric perspective.²

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¹ Kenya National Bureau of Statistics, *Economic Survey 2018*, available at <http://www.knbs.or.ke/download/economic-survey-2018/> [Accessed on 31/1/2019].

² United Nations, *Transforming our world: the 2030 Agenda for Sustainable Development*, Resolution adopted by the General Assembly on 25 September 2015, [without reference to a Main Committee

The Constitution of Kenya, 2010 also provides for sustainable development as one of the national values and principles of governance.³ Sustainable development is linked to the right to development, human rights and good governance, when it is described as sustainable human development. Sustainable human development focuses on material factors such as meeting basic needs and non-material factors such as rights and participation.⁴ It also seeks to achieve a number of goals to wit, poverty reduction, promotion of human rights, promotion of equitable opportunities, environmental conservation and assessment of the impacts of development activities.⁵ Vision 2030 adopts sustainable human development as it seeks to address the economic, social and political pillars. It thus fosters both material factors and non-material factors.⁶ Sustainable human development is, therefore, inextricably linked to people's livelihoods, and is thus requisite in moving towards environmental justice.

Regional economic development is one of the major goals of devolution under the Constitution of Kenya. Greater control over one's own livelihood is a key factor to development, empowerment and poverty alleviation.⁷ Local democratic control over natural resources can improve local livelihood and have positive ecological effects as well.⁸ Development comes with associated problems of soil degradation and waterways, altered landscape and destroyed biodiversity and habitat.⁹ Consequently, environment and development issues should be considered as integral activities. Local people should be empowered in a collaborative manner to enable them deal with negative environmental effects.

(A/70/L.1)], Seventieth session, Agenda items 15 and 116, 21 October 2015; See also generally, Muigua, K., *Nurturing Our Environment for Sustainable Development*, Glenwood Publishers, Nairobi, 2016.

³ Art. 10(2)(d), Constitution of Kenya.

⁴ United Nations, *Transforming our world: the 2030 Agenda for Sustainable Development*, Resolution adopted by the General Assembly on 25 September 2015, [without reference to a Main Committee (A/70/L.1)], Seventieth session, Agenda items 15 and 116, 21 October 2015.

⁵ See generally Amartya S., *Development as Freedom* (Anchor Books, New York, 1999), pp.35-53; See also UNDP, *Human Development Report 2011, The Real Wealth of Nations: Pathways to Human Development*, (Palgrave Macmillan Houndmills, Basingtoke, Hampshire, 2011), p. (i)-12. This report defines sustainable human development as *the expansion of the substantive freedoms of people today while making reasonable efforts to avoid seriously compromising those of future generations*.

⁶ Kenya Vision 2030, Government of Kenya, 2007.

⁷ Larson, A.M., "Decentralisation and Forest Management in Latin America: Towards a Working Model," *Public Admin. Dev.*, Vol. 23, 2003, pp. 211–226, p. 212.

⁸ *Ibid.*

⁹ 'Policy, Legal and Institutional Framework Governing Environmental Management in Kenya,' p. 305, available at http://www.tanariverdelta.org/tana/975DSY/version/default/part/AttachmentData/data/MUMIAS_Tana_EIA_art5.pdf [Accessed on 29/1/2019].

Sustainable development should, in the long term, ameliorate the negative effects of poverty, provide basic needs, and meet people's aspirations for a better life. Sustainable development can be satisfactorily achieved through the meaningful involvement of the people in the counties in the natural resources exploitation. The devolved system of government holds a promise to deal with rampant poverty in many parts of the country.¹⁰

3.0 Socio-Economic Rights in Kenya: The Scope

Kenya seeks to build a society that is based on the following national values and principles of governance: patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people; human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalised; good governance, integrity, transparency and accountability; and sustainable development.¹¹ These principles are to bind all State organs, State officers, public officers and all persons whenever any of them applies, or interprets, the Constitution; enacts, applies or interprets any law; or makes or implements public policy decisions.¹²

Article 19 of the Constitution of Kenya affirms that: the Bill of Rights is an integral part of Kenya's democratic state and is the framework for social, economic and cultural policies;¹³ and that the purpose of recognising and protecting human rights and fundamental freedoms is to preserve the dignity of individuals and communities and to promote social justice and the realisation of the potential of all human beings.¹⁴

Notably, the Constitution obligates the State to ensure protection and implementation of these rights by requiring that in applying any right under Article 43, if the State claims that it does not have the resources to implement the right, a court, tribunal or other authority shall be guided by the following principles: it is the responsibility of the State to show that the resources are not available; in allocating resources, the State shall give priority to ensuring the widest possible enjoyment of the right or fundamental freedom having regard to prevailing circumstances, including the vulnerability of particular groups or individuals; and the court, tribunal or other authority may not interfere with a decision by a State organ concerning the allocation of available resources, solely on the basis that it would have reached a different conclusion.¹⁵

¹⁰ *Sessional paper on Environment and Development* [Government Printer, Nairobi, 1999].

¹¹ Art. 10(2), Constitution of Kenya.

¹² Art. 10(1), Constitution of Kenya.

¹³ Art. 19(1), Constitution of Kenya.

¹⁴ Art. 19(2), Constitution of Kenya.

¹⁵ Article 20, Constitution of Kenya.

In implementing rights and fundamental freedoms, the Constitution requires that: the State should take legislative, policy and other measures, including the setting of standards, to achieve the progressive realisation of the rights guaranteed under Article 43;¹⁶ and all State organs and all public officers have the duty to address the needs of vulnerable groups within society, including women, older members of society, persons with disabilities, children, youth, members of minority or marginalised communities, and members of particular ethnic, religious or cultural communities.¹⁷

These obligations have been canvassed in various cases in Kenya including the case of *Mitu-Bell Welfare Society v Attorney General & 2 others*, **Nairobi**¹⁸ where the Court observed that: “the argument that social economic rights cannot be claimed at this point, two years after the promulgation of the Constitution, also ignores the fact that no provision of the Constitution is intended to wait until the state **feels** it is ready to meet its constitutional obligations. Article 21 and 43 require that there should be ‘**progressive realization**’ of social economic rights, implying that the state must begin to take steps, and **be seen** to take steps, towards realization of these rights.¹⁹ The Court also observed that these rights are progressive in nature, but there is a constitutional obligation on the state, when confronted with a matter such as this, to go beyond the standard objection.... Its obligation requires that it assists the court by showing if, and how, it is addressing or intends to address the rights of citizens to the attainment of the social economic rights, and what policies, if any, it has put in place to ensure that the rights are realized progressively, and how the petitioners in this case fit into its policies and plans.”²⁰

The issue of socio-economic rights was also canvassed in the case of *John Kabui Mwai and 3 Others v Kenya National Examinations Council & Others*, Nairobi²¹ where the High Court was to determine whether a government policy restricting the number of pupils from private primary schools who could join national high schools was discriminatory and in violation of the right to education. The court observed that: *the inclusion of economic, social and cultural rights in the Constitution is aimed at advancing the socio-economic needs of the people of Kenya, including those who are poor, in order to uplift their human dignity. The protection of these rights is an indication of*

¹⁶ Article 21(2), Constitution of Kenya.

¹⁷ Article 21(3), Constitution of Kenya.

¹⁸ Petition No. 164 of 2011 (Unreported).

¹⁹ Para. 53, *Mitu-Bell Welfare Society v Attorney General & 2 others*.

²⁰ Para. 78, *Mitu-Bell Welfare Society v Attorney General & 2 others*; See also the jurisprudence from the Constitutional Court of South Africa, such as: *Government of the Republic of South Africa v Grootboom & Others* 2001 (1) SA 46 (CC); *Minister of Health and Others v Treatment Action Campaign and Others* (No 1) (CCT9/02) 2002 (5) SA 703 (5 July 2002).

²¹ *John Kabui Mwai and 3 Others v Kenya National Examinations Council & Others*, Petition No. 15 of 2011 [2011]eKLR.

*the fact that the Constitution's transformative agenda looks beyond merely guaranteeing abstract equality. There is a commitment to transform Kenya from a society based on socio-economic deprivation to one based on equal and equitable distribution of resources. This is borne out by Articles 6(3) and 10 (2) (b).*²²

*In addition, the Court in John Kabui Mwai case observed that: the realisation of socio-economic rights means the realization of the conditions of the poor and less advantaged and the beginning of a generation that is free from socio-economic need. One of the obstacles to the realisation of this objective, however, is limited financial resources on the part of the Government. The available resources are not adequate to facilitate the immediate provision of socioeconomic goods and services to everyone on demand as individual rights. There has to be a holistic approach to providing socio-economic goods and services that focus beyond the individual (emphasis added).*²³

*In addition to the foregoing, the Court stated that: Socio-economic rights are by their very nature ideologically loaded. The realisation of these rights involves the making of ideological challenges which, among others, impact on the nature of the country's economic system. This is because these rights engender positive obligations and have budgetary implications which require making political choices. In our view, a public body should be given appropriate leeway in determining the best way of meeting its constitutional obligations (emphasis added).*²⁴

*In Mathew Okwanda v Minister of Health and Medical Services & 3 others [2013] eKLR²⁵ the Court also convincingly argued that: even where rights are to be progressively achieved, the State has an obligation to show that at least it has taken some concrete measures or is taking conscious steps to actualize and protect the rights in question....It must be recalled that the right guaranteed under Article 43(1) (a) is premised on establishment of a "standard." This standard must be judged in a holistic manner (emphasis added).*²⁶

Anyone seeking to enforce social and economic rights in Kenya does not have to only rely on the constitutional provisions on these rights since Article 2(6) of the Constitution provides that treaties and conventions ratified by Kenya shall form part of the law of Kenya²⁷. This thus means that there are other relevant instruments which include the *International Covenant on*

²² *John Kabui Mwai and 3 Others v Kenya National Examinations Council & Others*, p.6.

²³ *Ibid*, p.6.

²⁴ *John Kabui Mwai and 3 Others v Kenya National Examinations Council & Others*, p.6.

²⁵ *Mathew Okwanda v Minister of Health and Medical Services & 3 others [2013] eKLR*, Petition No. 94 of 2012.

²⁶ *Ibid*, paras 16 & 21.

²⁷ See also Treaty Making and Ratification Act, No. 45 of 2012, Laws of Kenya.

Civil and Political Rights (ICCPR)²⁸, the International Covenant on Economic and Social Rights (ICESR)²⁹; Universal Declaration of Human Rights (UDHR)³⁰; and Africa Charter on Human and People's Rights (ACHPR)³¹, amongst others.

The State is expected to take into account their international obligations when coming up with their development agenda and their implementation frameworks. These development frameworks are usually pegged on policy, legal and institutional frameworks. There are also constitutional principles of governance in place that the government of the day must follow while executing its plans and mandate. The 2010 Constitution outlines national values and principles of governance which must bind all State organs, State officers, public officers and all persons whenever any of them: applies or interprets this Constitution; enacts, applies or interprets any law; or makes or implements public policy decisions.³² Some of the relevant national values and principles of governance include: human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalised; and sustainable development.³³ These values and principles form a firm basis for pursuing socio-economic development for the Kenya people. This is further reinforced by Article 43 of the Constitution on economic and social rights, which guarantees that: every person has the right to the highest attainable standard of health, which includes the right to health care services, including reproductive health care; to accessible and adequate housing, and to reasonable standards of sanitation; to be free from hunger, and to have adequate food of acceptable quality; to clean and safe water in adequate quantities; to social security; and to education.³⁴ The Constitution of Kenya provides that the objects of devolved government are, *inter alia*, to promote democratic and accountable exercise of power; to foster national unity by recognising diversity; to give powers of self-governance to the people and enhance their participation in the exercise of the powers of the State and in making decisions affecting them; to recognise the right of communities to manage their own affairs and to further their development; to protect and promote the interests and rights of minorities and marginalised communities; to promote social and economic development and the provision of proximate, easily accessible services throughout Kenya; to ensure equitable sharing of national and local

²⁸ UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171.

²⁹ UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3.

³⁰ UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III).

³¹ Organization of African Unity (OAU), *African Charter on Human and Peoples' Rights* ("Banjul Charter"), 27 June 1981, CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982).

³² Constitution of Kenya 2010, Art. 10(1).

³³ Constitution of Kenya 2010, Art. 10(2).

³⁴ Constitution of Kenya 2010, Art. 43(1).

resources throughout Kenya; and to facilitate the decentralisation of State organs, their functions and services, from the capital of Kenya.³⁵

The Constitution provides for participation of persons with disabilities,³⁶ youth,³⁷ minorities and marginalized groups,³⁸ and older members of society,³⁹ in governance and all other spheres of life.

It is within the foregoing framework that social and economic development of the people of Kenya can be pursued in Kenya.

4.0 Realising Socio-Economic Rights in Kenya: Are We Yet There?

While successive governments in Kenya have put in place varying efforts geared towards achieving 'development' in the country, results have often been skewed with most of these efforts concentrating mainly on infrastructural development and inadequate resources being directed at the social economic empowerment of the citizenry.⁴⁰ The right of every person to self-determination as envisaged under the international bill of rights allows them to freely determine their political status and freely pursue their economic, social and cultural development.⁴¹ This paper is not concerned with the political aspect of this right but the pursuit of economic and social development. However, it is acknowledged that achieving this kind of development for the citizenry is not completely devoid of political influence as, it has been argued, social and political structures may shape government policy toward the welfare state.⁴²

³⁵ Art. 174, Constitution of Kenya 2010.

³⁶ Art. 54.

³⁷ Art. 55

³⁸ Art. 56

³⁹ Art. 57.

⁴⁰ Miriam Omolo, D., Wanja, R. and Jairo, S., "Comparative Study of Kenya, US, EU and China Trade and Investment Relations," (Institute of Economic Affairs (IEA Kenya), 2016). Available at <https://www.africaportal.org/publications/comparative-study-kenya-us-eu-and-china-trade-and-investment-relations/> [Accessed on 2/2/2019].

⁴¹ Article I of the Charter of the United Nations; African Charter of Human and Peoples' Rights of 1981; See also International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

⁴² Gilens, M., *Why Americans hate welfare: Race, media, and the politics of antipoverty policy*, University of Chicago Press, 2009.

The founding father of the nation, President Jomo Kenyatta in his agenda listed following as the greatest enemies of the country and which required to be addressed urgently: *Ugonjwa* (disease), *Umaskini* (poverty), *Ufisadi* (corruption) and *Ujinga* (ignorance and illiteracy).⁴³

While there may be evidence of economic development in the country, it is arguable that such economic growth has only benefited small numbers of people, with great disparities of wealth leading most Kenyans continue to suffer under very low living standards.⁴⁴

The recent move by the Government of Kenya to pursue its 'Big Four Agenda' which targets: enhancing manufacturing; food security and nutrition; universal health care; and affordable housing, is a step in the right direction. These pillars could be deemed to be part of the government's efforts towards fulfilling its constitutional obligations on the 'progressive realisation of social economic rights'.⁴⁵

5.0 Actualising Socio-Economic Rights under the Constitution of Kenya for Sustainable Development

This section offers suggestions on some of the ways that policy makers and other stakeholders can ensure inclusive, meaningful and impactful socio-economic development as an ingredient for realisation of sustainable development agenda in the country. It is however worth mentioning that this cannot be achieved through unilateral efforts and must be done through the concerted efforts of all stakeholders.

5.1 Addressing Unemployment and Low Incomes for Poverty reduction and Empowerment

The United Nations *2030 Agenda for Sustainable Development*⁴⁶ includes a set of 17 Sustainable Development Goals (SDGs) to end poverty, fight inequality and injustice, and tackle climate

⁴³ Wekesa, E., 'Jomo Kenyatta's agenda still big enough to guide us today,' *Daily Nation*, Friday February 23 2018. Available at <https://www.nation.co.ke/oped/letters/Jomo-Kenyatta-s-agenda-/440806-4317322-wt715v/index.html> [Accessed on 31/1/2019].

⁴⁴ The World Bank, "Poverty Incidence in Kenya Declined Significantly, but Unlikely to be Eradicated by 2030," April 2018. Available at <https://www.worldbank.org/en/country/kenya/publication/kenya-economic-update-poverty-incidence-in-kenya-declined-significantly-but-unlikely-to-be-eradicated-by-2030> [Accessed on 31/1/2019]; Kondo, V., "World bank report says poverty still high in Kenya at 29.2 percent," *Standard Digital*, 18th October, 2018. Available at <https://www.standardmedia.co.ke/article/2001299505/world-bank-report-says-poverty-still-high-in-kenya-at-29-2-percent> [Accessed on 31/1/2019]; Kenya National Bureau of Statistics, *Economic Survey 2018*, available at <http://www.knbs.or.ke/download/economic-survey-2018/> [Accessed on 31/1/2019].

⁴⁵ See Constitution of Kenya, articles 20; 21.

⁴⁶ UN General Assembly, *Transforming our world: the 2030 Agenda for Sustainable Development*, Resolution adopted by the General Assembly on 25 September 2015, [without reference to a Main Committee (A/70/L.1)], Seventieth session, Agenda items 15 and 116, 21 October 2015.

change by the year 2030.⁴⁷ The 2030 Agenda for Sustainable Development also seeks to strengthen universal peace in larger freedom and was formulated in recognition that eradicating poverty in all its forms and dimensions, including extreme poverty, is the greatest global challenge and an indispensable requirement for sustainable development.⁴⁸

SDG Goal 8 seeks to promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all. One of the ways that is to be achieved will be promotion of development-oriented policies that support productive activities, decent job creation, entrepreneurship, creativity and innovation, and encourage the formalization and growth of micro-, small- and medium-sized enterprises, including through access to financial services.⁴⁹ Such policies are a good foundation for the empowerment of the poor in the Kenyan society.

Empowering the poor sections of the population in the society is the first step towards building a sustainable economic growth and development. A society that seeks to empower its men and women both socially and economically can have reasonable expectations as far as poverty reduction or even elimination is concerned.⁵⁰

It has been argued that any given growth scenario can generate different poverty outcomes for a given rate of growth, the extent of poverty reduction depends on how the distribution of income changes with changes in growth, and on initial inequalities in income, assets and access to opportunities to allow the poor to share in growth.⁵¹ Equi-proportional growth leaves income distribution intact, whereas by improving the position of some at the lower scale of distribution, it reduces poverty. Pro-poor growth and development policies, however, will by definition improve the status of the poor and affect income distribution.⁵²

⁴⁷ United Nations Development Programme, 'Sustainable Development Goals (SDGs),' available at <http://www.undp.org/content/undp/en/home/mdgoverview/post-2015-development-agenda.html> [Accessed on 31/1/2019].

⁴⁸ Agenda 2030 for Sustainable Development Goals, Preamble.

⁴⁹ Target 8.3.

⁵⁰ See 2030 Agenda on Sustainable Development.

⁵¹ Quartey, P., "Financial sector development, savings mobilization and poverty reduction in Ghana," In *Financial development, institutions, growth and poverty reduction*, pp. 87-119. Palgrave Macmillan, London, 2008, p.11. Available at https://link.springer.com/chapter/10.1057/9780230594029_5 [Accessed on 29/01/2019].

⁵² Quartey, P., "Financial sector development, savings mobilization and poverty reduction in Ghana," op. cit., p.11.

This supports the argument that unless any perceived or real economic growth reported in a country is as a result of economic policies, plans and programmes that take into account the interests of the poor, then it cannot rightly be used as a measure of how well the citizenry is doing.⁵³

Investing in pro-poor development projects is one of the best ways that poverty can be addressed in the country, instead of short-term projects.⁵⁴ Economic empowerment of the various groups in Kenya can go a long way in improving the lives of families and addressing the ever rising levels of poverty in the country.

Empowerment is defined as a process through which individuals or organised groups increase their power and autonomy to achieve certain outcomes they need and desire.⁵⁵ Empowerment focuses on supporting disadvantaged people to gain power and exert greater influence over those who control access to key resources.⁵⁶

Social empowerment on the other hand may be defined as the process of developing a sense of autonomy and self-confidence, and acting individually and collectively to change social relationships and the institutions and discourses that exclude poor people and keep them in poverty.⁵⁷ Poor people's empowerment, and their ability to hold others to account, is strongly influenced by their individual assets (such as land, housing, livestock, savings) and capabilities of all types: human (such as good health and education), social (such as social belonging, a sense of identity, leadership relations) and psychological (self-esteem, self-confidence, the ability to imagine and aspire to a better future). Also important are people's collective assets and capabilities, such as voice, organisation, representation and identity.⁵⁸

Reduction of crime rates and other social ills can arguably be achieved through addressing social inequalities in the society. Some scholars have argued that there exists a link between

⁵³ See generally, World Commission on Environment and Development, *Our Common Future*, Oxford: Oxford University Press, 1987.

⁵⁴ An example of such short-term projects is the clean-up programme launched in Kibera by President Uhuru Kenyatta in 2014 in partnership with National Youth Service, which, although well meaning, may actually have been knee-jerk reactions to deeper problems in society.

⁵⁵ Combaz, E. & Mcloughlin, C., *Voice, Empowerment and Accountability: Topic Guide*, Birmingham, UK: GSDRC, University of Birmingham, 2014, p.4.

Available at https://gsdrc.org/wp-content/uploads/2015/07/GSDRC_VEA_topic_guide.pdf [Accessed on 29/01/2019].

⁵⁶ *Ibid*, p.4.

⁵⁷ *Ibid*.

⁵⁸ *Ibid*.

unemployment and crime, incarceration and family breakup.⁵⁹ Empowering the different groups in society can help them take charge of their economic and social lives thus effectively participating economic development and realisation of sustainable development agenda.

It has been observed that empowerment of those living in poverty is both a critical driver and an important measure of poverty reduction.⁶⁰ This is because the decisions and actions of poor people themselves can bring about sustainable improvements in their lives and livelihoods.⁶¹ The need for empowerment of the poor is justified on the fact that sustainable poverty reduction needs poor people to be both the agents and beneficiaries of economic growth to directly participate in, contribute to and benefit from growth processes.⁶² Strengthening poor people's organizations, providing them with more control over assets and promoting their influence in economic governance will improve the terms on which they engage in markets.⁶³ Thus, economic empowerment combined with political and social empowerment will make growth much more effective in reducing poverty.⁶⁴

5.2 Enhanced and Diverse Education Opportunities

Some scholars have rightly argued that certain kinds of education such as vocational training and higher education, equip a man to perform certain jobs or functions, or enable a man to perform a given function more effectively.⁶⁵ This is justified on the theory that education enhances one's ability to receive, decode, and understand information, and that information processing, and interpretation is important for performing or learning to perform many jobs.⁶⁶ Thus, the process of education can be viewed as an act of investment in people; that educated people are bearers of human capital.⁶⁷ However, it must be pointed out that such education

⁵⁹ Reid, C., "Addressing the challenges of unemployment in low-income communities," *Community Investments* Spr (2009): 3-7 at p. 4.

Available at https://www.frbsf.org/community-development/files/Reid_Carolina_CI_Spring_2009.pdf [Accessed on 29/01/2019]; Mehlum, H., Miguel, E. and Torvik, R., "Poverty and crime in 19th century Germany," *Journal of Urban Economics* 59, no. 3 (2006): 370-388;

⁶⁰ OECD, *Poverty Reduction and Pro-Poor Growth: The Role of Empowerment*, OECD Publishing, Paris, 2012. Available at <https://doi.org/10.1787/9789264168350-en> [Accessed on 29/01/2019].

⁶¹ OECD, *Poverty Reduction and Pro-Poor Growth: The Role of Empowerment*, OECD Publishing, Paris, 2012, op. cit.; "As he thinks, so he is; as he continues to think, so he remains."— James Allen, *As a Man Thinketh*.

⁶² Ibid.

⁶³ Ibid.

⁶⁴ Ibid.

⁶⁵ Nelson, R.R. and Phelps, E.S., "Investment in humans, technological diffusion, and economic growth," *The American economic review* 56, no. 1/2 (1966): 69-75 at p.69.

⁶⁶ Ibid, at p.69.

⁶⁷ Nelson, R.R. and Phelps, E.S., "Investment in humans, technological diffusion, and economic growth," *The American economic review* 56, no. 1/2 (1966): 69-75 at p.75.

must be capable of empowering the citizenry not just any foreign narrative packaged as education and meant to brainwash the recipients.

In the local Kenyan scene, it has been argued that some of the so-called foreign investors source the bulk of their investment money from local and foreign banks domiciled in these developing countries. Technology transfer is equally elusive because these investors demand and are allowed to bring in their own key staff.⁶⁸

It has convincingly been argued that in order to develop the knowledgeable and skilled people, first, the people need to be educated to very high levels, university, preferably, and second, the individuals who have had advanced education are trained in the workplace.⁶⁹ This is justified on the belief that education develops the mind and character and equips the individual with the ability to think and provide theoretical solutions to present and future problems while training equips the individual with practical skills.⁷⁰ Acquiring both theoretical knowledge and practical skills is the only way to produce a versatile and productive workforce need for real development.⁷¹

Proper equipment of educational institutions should therefore form part of the strategies employed in not only achieving practical and tangible development of a country but should also be considered important for empowering individuals and in turn help realise socio-economic development through tackling unemployment and poverty crisis.

Some scholars have specifically recommended that developing nations, African nations in particular, need to set up a framework for training university graduates in a curriculum-based scheme for 3 – 4 years, so as to acquire the skills for modernizing their traditional activities and for studying, servicing, maintaining, and duplicating, and eventually improving upon the things they import today.⁷²

⁶⁸ Mbatawa wa Ngai, 'This is how to tackle the poverty gap,' *Standard Digital*, Posted on: 29th Jan 2019 10:07:19 GMT +0300. Available at <https://www.standardmedia.co.ke/business/article/2001311195/tackling-widening-rich-poverty-gap> [Accessed on 29/01/2019].

⁶⁹ Ogbimi, F.E., "Promoting sustainable economic growth and industrialisation: solution to mass unemployment and poverty", *African journal of traditional, complementary, and alternative medicines: AJTCAM*, vol. 4, No. 4, 2007, pp. 541-52, at p.549.

⁷⁰ *Ibid*, p.549.

⁷¹ *Ibid*, p.549.

⁷² Ogbimi, F.E., "Promoting sustainable economic growth and industrialisation: solution to mass unemployment and poverty", *op. cit.*, at p.549.

Thus, even as the government seeks to attract more foreign direct investments projects in the country, there is a need to review the investment policies in the country as well as equipping the Kenyan people with relevant skills and education as a way to build capacity for effective technology transfer.

The various legal provisions on incorporation of local content as a prerequisite to the approval of foreign investments in Kenya are also a laudable step to empowering the locals both socially and economically in order to build capacity for sustainable individual and national growth.⁷³

5.3 Role of Businesses in Socio-Economic Development

The Agenda 2030 on SDGs recognises the role of businesses in improving the lives of people and acknowledges that private business activity, investment and innovation are major drivers of productivity, inclusive economic growth and job creation.⁷⁴ The Agenda also calls upon all businesses to apply their creativity and innovation to solving sustainable development challenges. The goal is to foster a dynamic and well-functioning business sector, while protecting labour rights and environmental and health standards in accordance with relevant international standards and agreements and other ongoing initiatives in this regard.⁷⁵

Businesses can go a long way improving the lives of local communities where they operate through corporate social responsibility activities as well as local sourcing of materials and labour thus directly empowering these communities.

5.4 Tackling Corruption in Governance Matters

Although Kenya dropped one point in the 2018 global Corruption Perceptions Index (CPI) released by Transparency International on 29th January 2019, there are still rampant cases of corruption in the country.⁷⁶

This is despite the national values and principles of governance which demands for a system of governance that is based on, inter alia: patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people; human dignity, equity,

⁷³ See *Petroleum (Exploration, Development and Production) Bill, 2015* (provisions on local content); *Mining Act, 2016*; *Community Land Act, 2016*.

⁷⁴ Target 67, 2030 Agenda on Sustainable Development Goals.

⁷⁵ *Ibid.*

⁷⁶ Ibrahim Oruko and Francis Mureithi, 'Rwanda, Tanzania outperform Kenya in TI corruption index,' *Daily Nation*, Tuesday, January 29 2019. Available at <https://www.nation.co.ke/news/Kenya-drops-in-graft-index-despite-govt-crackdown/1056-4956238-156tulz/index.html> [Accessed on 29/01/2019].

social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalised; good governance, integrity, transparency and accountability.⁷⁷

This is complemented by the *Leadership and Integrity Act, 2012*⁷⁸ which was enacted to give effect to, and establish procedures and mechanisms for the effective administration of Chapter Six of the Constitution and for connected purposes.⁷⁹ The primary purpose of this Act is to ensure that State officers respect the values, principles and requirements of the Constitution, including the national values and principles provided for under Article 10 of the Constitution.⁸⁰ There is need for a sustained onslaught on corruption in the country for long-term improvement of the state of governance in the country and ensure that all the funds meant for development projects and any benefits accruing from investments meant to improve the socio-economic status of the average citizen have a trickledown effect that reaches all.

5.5 Investing in Science and Technological Development for Socio-Economic Empowerment

Investment in educational institutions to produce highly educated and skilled population sets the foundation for embracement of the scientific and technological development. The Constitution of Kenya obligates the State to: promote all forms of national and cultural expression through literature, the arts, traditional celebrations, science, communication, information, mass media, publications, libraries and other cultural heritage; recognise the role of science and indigenous technologies in the development of the nation; and promote the intellectual property rights of the people of Kenya.⁸¹ The Constitution also guarantees the right of every person to freedom of expression, which includes, inter alia: freedom to seek, receive or impart information or ideas; freedom of artistic creativity; and academic freedom and freedom of scientific research.⁸²

These constitutional provisions are also complemented by the *Science, Technology and Innovation Act, 2013*⁸³ which was enacted to facilitate the promotion, co-ordination and regulation of the progress of science, technology and innovation of the country; to assign priority to the development of science, technology and innovation; to entrench science, technology and innovation into the national production system and for connected purposes.⁸⁴

⁷⁷ Article 10, Constitution of Kenya.

⁷⁸ Leadership and Integrity Act, No. 19 of 2012, Laws of Kenya.

⁷⁹ Ibid, Preamble.

⁸⁰ Ibid, sec. 3.

⁸¹ Article 11, Constitution of Kenya.

⁸² Article 33, Constitution of Kenya.

⁸³ Science, Technology and Innovation Act, No. 28 of 2013, Laws of Kenya.

⁸⁴ Ibid, Preamble.

Notably, the Act defines “technology” to mean the application of knowledge to meet the goals, goods and services for sustainable development.⁸⁵ The Act establishes the National Commission for Science, Technology and Innovation⁸⁶ which is mandated to regulate and assure quality in the science, technology and innovation sector and advise the Government in related matters⁸⁷. The Act also spells out the specific functions of the Commission.⁸⁸ This commission can work closely with other stakeholders including communities to facilitate penetration and use of science, technology and innovation in various sectors, as envisaged within its mandate under the Act.

The 2030 Agenda on SDGs also recognise the role of Science, technology and innovation in realisation of the sustainable development agenda. It acknowledges that the spread of information and communications technology and global interconnectedness has great potential to accelerate human progress, to bridge the digital divide and to develop knowledge societies, as does scientific and technological innovation across areas as diverse as medicine and energy.⁸⁹

5.6 Duties of Citizens towards securing Socio-Economic Empowerment

While it is acknowledged that the State and other stakeholders have a major role to play in securing the social and economic rights for all, citizens also have a role to play towards the same also. Even as the State seeks to empower its citizenry through education and creating a conducive environment for business and self actualisation, the target citizens should also cultivate the right attitude and spend their time towards bettering their lives and acquire the necessary skills.⁹⁰ They must work closely with the State in actualising the social and economic rights as guaranteed under the Constitution. A lazy citizenry will not achieve social economic development.

The duty to work should be built into the national legal framework as it is currently missing from the existing labour laws⁹¹. There is a need for the Kenyans to improve on their work

⁸⁵ Ibid, Sec. 2.

⁸⁶ Ibid, Sec. 3.

⁸⁷ Ibid, Sec. 4.

⁸⁸ Ibid, Sec. 6.

⁸⁹ Target 15, 2030 Agenda on Sustainable Development Goals.

⁹⁰ Muigua, K., *Utilising Time as a Natural Resource, and Innovation for Development in Kenya*, available at <http://kmco.co.ke/wp-content/uploads/2018/08/Utilising-Time-as-a-Natural-Resource-and-Innovation-for-Development-in-Kenya-PAPER-6th-OCTOBER-2015.pdf> [Accessed on 2/02/2019].

⁹¹ Art. 41, Constitution of Kenya; labour laws of 2007 (Employment Act, Labour Relations Act, Occupational Safety and Health Act and Work Injury Benefits Act).

ethics; effective use of time for self actualisation, as is the case in Japan.⁹² Prayers alone will not get us there; people must work.⁹³

6.0 Conclusion

Actualising social economic rights for sustainable development requires the concerted efforts of all the stakeholders who include the government (National and County governments), the populace, Non-Governmental Organisations and global partners, amongst others. It is a prerequisite for the realisation of the sustainable development agenda.

Kenya can sustainably develop economically and socially until it is a first world economy. Actualising social economic rights for sustainable development in Kenya is a goal that can be achieved. It is possible.

⁹² Muigua, K., *Utilising Time as a Natural Resource, and Innovation for Development in Kenya*, op cit.

⁹³ The Holy Bible, 2 Thessalonians 3:10-“For even when we were with you, we gave you this rule: ‘The one who is unwilling to work shall not eat.’”; *Man will not get anything unless he works hard*” (Surah al-Najm, 53:39) Al- Quran; Bhagavad Gita - Chapter 3 - Verse 8 | Srimad Bhagavad Gita-“You should perform your prescribed duties, since action is better than inaction. You cannot maintain your existence without action.”

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