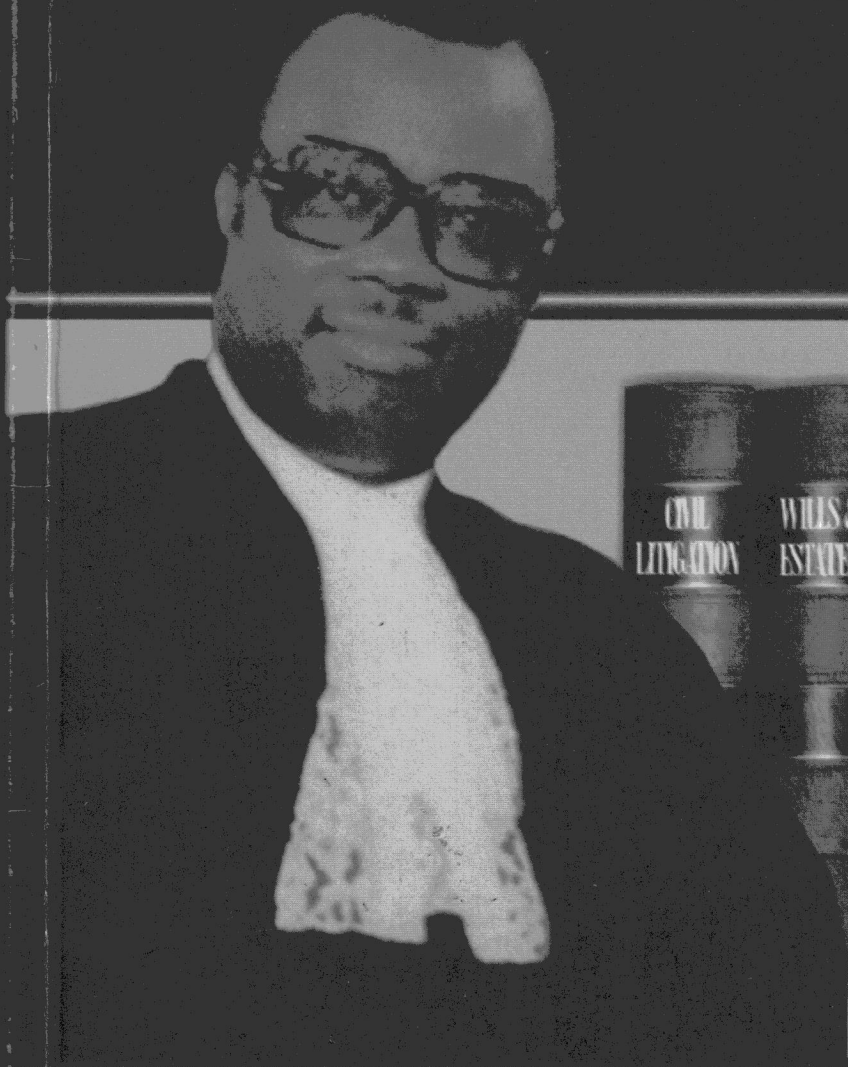


Modern Trends in Laws of Nigeria:

ESSAYS IN HONOUR OF
PRINCE BOLA AJIBOLA

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CHAPTER SIXTEEN

JUSTICIABILITY OF ECONOMIC SOCIAL AND CULTURAL RIGHTS UNDER THE 1999 CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA: AN OVERVIEW

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INTRODUCTION

The question whether economic, social and cultural (ESC) rights are justiciable and realizable has historically been one of the least clearly understood and most hotly debated issues in the literature of economic social and cultural rights. Even most courts around the world have been reluctant to make rulings on them.

They have generally referred to the policy makers and politicians, hesitant to step on the toes of those they believe to be rightful decision makers on those matters. They have refused to explore the terrain of ESC rights in which there are few precedents.¹⁰²⁴

Economic social and cultural Rights are human rights recognized internationally and contained among other groups of human rights in the Universal Declaration of Human Rights.¹⁰²⁵ They are laid down in two legally binding documents; the International Covenant on Civil and Political Rights (ICCPR)¹⁰²⁶ and the International Covenant on Economic Social and Cultural Rights (ICESR)¹⁰²⁷.

¹⁰²⁴ Mr. F. Morka, Executive Director, Social Cultural Right Action Centre, in an address presented at the seminar on Economic, social and cultural Rights Litigation in Lagos between March 26 and March 28, 2008. Published in *Guardian Newspapers*, April 8, 2008, P.83.

¹⁰²⁵ The Universal Declaration of Human Rights (UDHR) was inspired by President F.D. Roosevelt's "four freedoms" speech to the U.S. Congress on 6th January 1941. Eleanor Roosevelt and French diplomat Rene Cassin took lead roles in its drafting. It was adopted in 1948.

¹⁰²⁶ International Covenant on Civil and Political Rights, (ICCPR) 1966.

¹⁰²⁷ International Covenant on Economic Social and Cultural Rights (ICESCR), 1966.

In Nigeria, economic social and cultural rights are recognized and contained in chapter 2 of the 1999 constitution of Nigeria under issues relating to fundamental objectives and directive principles of state policy.

In spite of the recognition accorded human rights generally by both international and local statutes, practice shows that globally, the different categories of human rights have not developed at an equal pace. Compared to civil and political rights, economic social and cultural rights are less developed and less enforced. This is partly due to the fact that they have been seen for a long time as secondary or second generation rights. They have also been made non-justiciable by the constitutions of some countries including the Nigeria Constitution.

By virtue of S. 6 (6) (c) of the constitution of the Federal Republic of Nigeria,¹⁰²⁸ economic social and cultural rights are not justiciable. That is, the rights are incapable of judicial enforcement. The effect is that citizens are prevented from bringing action before the courts to claim or challenge the denial of those rights. The above among other factors has led to the gross deprivation of those rights.

The thrust of this paper is to argue that economic, social and cultural rights are capable of being realized and made justiciable. It is going to examine the barriers to the realization of those rights and provide modules/strategies for promoting and enforcing the rights.

ECONOMIC, SOCIAL AND CULTURAL RIGHTS IN FOCUS

As stated above, economic social and cultural rights are a specie of human rights. Human rights can be generally perceived as legal rights that pertain to mankind as a whole or all persons by virtue of their being moral and rational creatures, while fundamental human rights are those rights which attach to every human being and are inalienable in character.

Various terminologies are used to describe economic, social and cultural rights. It has been referred to as second generation rights while the civil and political rights such as freedom of movement, freedom of the press, right to liberty and equality before the law and so on are seen as the first generation rights.

¹⁰²⁸ S.6 (6) ©, 1999 Constitution of the Federal Republic of Nigeria.

Regardless of the different descriptions, economic, social and cultural rights are fundamental in the sense that without their being guaranteed it is impossible to enjoy civil and political liberties. For how can a woman who has no place to put her head be said to enjoy right to life? A person's right to freedom of movement is dependant on being able to afford the energy and fare to exercise the right.¹⁰²⁹

The Universal Declaration of Human Rights¹⁰³⁰ recognise the inherent dignity and equal and inalienable rights of all persons. This led to the adoption of two covenants. One, on economic, social and cultural rights¹⁰³¹ and the other on civil and political rights¹⁰³².

Differing approaches were taken in each of the covenants. While states are required to respect and ensure civil and political rights, they are required to achieve progressively the full realization of economic, social and cultural rights¹⁰³³. The rights were considered to require a pro-active role of the states involving financial and material resources. Since these resources might not be directly available, the implementation of those rights could only be undertaken progressively. This has also been a contributory factor to the deprivation of those rights by the states and the general perception that civil and political rights are more important or superior to economic social and cultural rights. Whereas the preamble to both 1966 Covenants¹⁰³⁴ recognize that all human rights are Universal, Indivisible, interdependent, interrelated and of equal value¹⁰³⁵.

Interpretation of causes for division into two covenants are not Uniform. In the opinion of one author;

"Western States fought for and obtained a division into two Covenants,-----
----- The covenant on civil and political rights on one hand is drafted in terms of the individual rights, for example, every human being has the inherent right to life, no one shall be held in slavery; All persons shall be equal before the

¹⁰²⁹ See B. Aturu, perspective on sovereignty clause in the constitution. Punch Newspapers publication of 16/6/2008.

¹⁰³⁰ Universal Declaration of Human Rights, 1948, supra.

¹⁰³¹ International Covenants on Economic, Social and Cultural Rights, 1966, Supra.

¹⁰³² International Covenants on Civil and Political Rights 1966, Supra.

¹⁰³³ Article 2 (1), international Covenant on Economic Social and Cultural Rights, 1966, Supra.

¹⁰³⁴ International Covenant on Economic Social and Cultural Rights 1966. International Covenant on civil and Political Rights, 1966, Supra.

¹⁰³⁵ See also the Vienna Declaration and Programme of Action, UN.DOC/ACONF. 157.23 12th July, 1995.

courts and tribunals. The Covenant on Economic Social and Cultural Rights on the other hand speaks only to the states not to the individual: the state parties to the present covenant recognize the right to work: The state parties undertake to ensure the right of everyone to education. There was a wide agreement and clear recognition that the means required to induce compliance with socio economic undertakings were different from those required for Civil-Political rights”¹⁰³⁶

In contrast to the above opinion, another author says:

“Although the General Assembly decided upon adoption of two distinct covenants it did so essentially because of the different nature of implementing measures which would generally be involved and not to imply any divisibility or hierarchy among the rights concerned”¹⁰³⁷.

In spite of the above differences in opinion it should be noted that theories of human rights as natural rights and the practical approaches based upon such theories gave preference to civil and Political rights and considered them as being of primary importance. This approach largely characterized what was called “the western doctrine of human rights”¹⁰³⁸, and was described as proceeding from the assumption that:

“Although it is not really possible to rank human rights in order of preference, civil and Political rights appear to be of primary importance”¹⁰³⁹

On the other hand, up till the mid 1980s, the preference of socialist (Eastern) states and of most developing states was clearly for economic, social and cultural rights.¹⁰⁴⁰ It is noteworthy that presently both civil and political rights and economic, social and cultural rights are of paramount importance to the developing states to the extent that the states have accepted these two groups of rights and consequently refused to align wholly with the West or East. The two groups of rights are needed for an individual to actualize the potentials of life endowed by God for his happiness, good health, peace and security.

¹⁰³⁶ Louis Henken, Introduction to “The International Bill of rights” Louis Henken ed., Columbia University Press, New York, 1981, p.10.

¹⁰³⁷ Vladimir Kartashkin, “Economic Social and Cultural Rights”, in the International Dimensions of Human Rights, Karel Vasak and Philip Alston eds. Vol. 1 UNESCO 1982, P. 112

¹⁰³⁸ See Antonia Casses in “International law in a Divided World’s Clarendon press, Oxford, 1986, P 296

¹⁰³⁹ Ibid

¹⁰⁴⁰ Ibid. pp 301, 307 and 308

The above position was emphasized by the United Nations document on the Declaration of the Right to Development¹⁰⁴¹. It provides;

"All human rights and fundamental freedoms are indivisible and interdependent; equal attention and urgent consideration should be given to the implementation, promotion and protection of civil, Political, economic social and cultural rights"¹⁰⁴².

The obligation to achieve progressively the full realization of the rights require state parties to move as expeditiously as possible towards the realization of the rights and this can be effected not only by increasing resources but also by development of societal resources necessary for the realization by everyone of the rights recognized in the covenant¹⁰⁴³.

UNDERSTANDING THE CONCEPT OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

The International Covenant on Economic Social and Cultural Rights provides comprehensively for what economic social and cultural rights stand for. The rights are as follows: right to work¹⁰⁴⁴ right to family¹⁰⁴⁵, right of everyone to an adequate standard of living including food, clothing, housing and continuous improvement of living conditions,¹⁰⁴⁶ right to the enjoyment of the highest attainable standard of physical and mental health,¹⁰⁴⁷ the right of everyone to take part in cultural life, to enjoy the benefits of scientific progress and its applications and to benefit from the protection of moral and material interests resulting from scientific, literary or artistic production of which he is the author;¹⁰⁴⁸ the right to education which includes compulsory and free primary education, available and accessible technical and vocational education¹⁰⁴⁹.

ON-GOING BARRIERS

Although a lot has been done to promote human rights especially economic, social and cultural rights, but to many hundreds of millions of the worlds

¹⁰⁴¹ United Nations document on the Declaration of Right to Development adopted in 1966 General Assembly resolution 14(28)Article 6, Para 2

¹⁰⁴² Lewis Henken, Op cit. P. 113

¹⁰⁴³ See UNDP Human Development Report, 1991, Oxford University press, Pp 2 and 24

¹⁰⁴⁴ Article 7, International Covenant on Economic Social and Cultural Rights, 1966, Supra

¹⁰⁴⁵ Article 10, Ibid

¹⁰⁴⁶ Article 11, Ibid

¹⁰⁴⁷ Article 12, Ibid

¹⁰⁴⁸ Article 18, Ibid

¹⁰⁴⁹ Article 13, Ibid see also amnesty International, USA. www.amnesty.usa.org.

citizens, the full realization of economic social and cultural rights is a distant, increasingly unattainable and desperate struggle. Despite the ratification by 151 countries¹⁰⁵⁰ of Economic Social and Cultural Rights Covenant across the world, 840 million people are chronically malnourished¹⁰⁵¹. Nearly 11 million children die before the age of five each year¹⁰⁵². Over 100 million (More than half of whom are girls) do not have access even to primary education¹⁰⁵³.

Though no individual, policy or situation can be labeled as singly responsible for the painful state of affairs in which hundreds of people entitled by international law to the enjoyment of economic social and cultural rights are deprived of these rights, it is believed that a number of elements can be identified as factors which affect the realization of economic, Social and Cultural rights.

These factors impede effective promotion and protection of economic social and cultural rights in most domestic jurisdictions particularly in common law jurisdictions such as Nigeria.

These factors among others include the following:

1) DUALISTIC VIEWS OF HUMAN RIGHTS

Consequent upon the promulgation of two distinct bills of rights namely; the International covenant on civil and political rights (ICCPR) and the International Covenant on Economic Social and Cultural Right (ICESCR), the former required immediate implementation while the latter provides in Article 2(1)¹⁰⁵⁴ as follows:

“Each state party to the present covenant undertakes to take steps to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present covenant”¹⁰⁵⁵

¹⁰⁵⁰ Office of the UN High Commissioner for Human Rights (OHCHR). www.Ohchr.org

¹⁰⁵¹ Food and Agricultural organization, The State of Food insecurity in the World, 2003. <http://asiapacific.amnesty.org/library/index>

¹⁰⁵² World Health Organization, WHO and the Millennium Development Goals, Fact sheet No. 290 May 2005 www.who.int/mediacentre/factsheets/fs290/en/index.Htm/.

¹⁰⁵³ Education for all Global Monitoring Report, 2005 The Quality Imperative, UNESCO www.Efareport.Unesco.Org.

¹⁰⁵⁴ The International Covenant on Economic Social and Cultural Rights (ICESCR), 1996, Article 2(1)

¹⁰⁵⁵ This position was confirmed in the comments submitted by the USA report on the open ended Working Group on the right to development, UN Doc. E/CN./2001/26, cited in Tomaserski, K.

Based on the foregoing, economic social and cultural rights continued to be viewed with suspicion, caution and skepticism, surrounded as it were with a hazy cloud of doubt and treated with an air of triviality. Although international law unreservedly treats this category of rights as equal to civil and political rights, the latter groups continues to receive far greater attention.

2) DIRECTIVE PRINCIPLES AND ECONOMIC, SOCIAL AND CULTURAL RIGHTS.

Most countries with written constitutions such as Nigeria set out objectives and state policy goals the government is obliged to pursue for the better life of its citizens¹⁰⁵⁶. Chapter 2 of the 1999 Constitution of Nigeria enjoins the state to ensure that its policies and actions aim towards the full realization of economic social and cultural rights such as health, education, employment etc.

However, the same Constitution in section 6(6) (c) made these rights non-justiciable. It provides that the judicial powers vested (by the constitution) on the courts:

(c) Shall not extend ... to any issue or question as to whether any law or any judicial decision is in conformity with the fundamental objectives and directive principles of state policy set out in chapter 2 of the constitution.

The wide conception and interpretation given to this provision is that chapter 2 of the constitution contains economic, social and cultural rights provision and Section 6 (6) (c) of the same constitution prevents the courts from entertaining complaints of breach of those rights. In other words, the jurisdiction of the courts over economic social and cultural rights have been removed by Section 6 (6) (c) of the constitution. In a number of cases concerning economic social and cultural rights the courts had declined to offer any remedy pleading non-justiciability clause in Section 6(6) (c)¹⁰⁵⁷.

"Unasked questions about ecosoc rights from the experience of the special rapporteur on the right to education"

¹⁰⁵⁶ See Chapter 2, 1999 Constitution of the Federal Republic of Nigeria containing the fundamental objectives and directive principles of state policies.

¹⁰⁵⁷ See *Okogie v Attorney General of Lagos State* (1981) 2 NCLR, 337 A.G Lagos v Dosunmu ITWLR (1989) P. 1

In *Uzoukwu v Ezeanu ii*¹⁰⁵⁸, the Court of Appeal said concerning economic social and cultural rights.

"There are other rights which may pertain to a person which are neither fundamental nor justiciable in the courts. These may include rights given by the constitution as under fundamental objectives and Directive Principles of state Policy under chapter 2 of the constitution".

It could be observed from the foregoing that directive principles are mere political statements of national goals. They are therefore strictly speaking not constitutional provisions for economic, Social and Cultural rights. The late Sage, Obefemi Awolowo¹⁰⁵⁹ had this to say; "the quality of the social objectives are reduced to worthless platitudes... and hollow admonitions which should have no place in a constitution which is, first and last a legal document whose provisions must ipso facto be justicible and legally enforceable"

In the opinion of Dr. Abiola Ojo, "Most if not all the matters provided for in the objectives and Directive section belong to the area of party politics"¹⁰⁶⁰ H. Sanni¹⁰⁶¹ sarcastically describes the arrangement as a "half hearted" and "Ostrich like" approach to constitution making.

3) STRUCTURAL ADJUSTMENT

This is in relation to the impact of the structural adjustment advocated by the world Bank on the realization of economic, social and cultural rights especially the right to work, to food, to housing to health, to education and to development.

Adjustment loans represent the desire of the Bank not only to be an important source of finance but also to play a central role in the decision making process in developing countries. Governments which receive structural adjustment loans are rewarded by being allowed to spend the money they receive on just anything they like¹⁰⁶². The conditions generally set by IMF, which must be fulfilled by a recipient country before being considered as internationally

¹⁰⁵⁸ *Uzoukwu v Ezeanu ii*, 1991, 6 NWLR (Part 200) 700 at 761-762.

¹⁰⁵⁹ See the Great Debate – Nigeria viewpoints on the Draft constitution. A Daily Time Newspaper Publication based on the debates of 1979 constitution. P. 2-3

¹⁰⁶⁰ The Great Debate – Ibid, p. 3

¹⁰⁶¹ The Great Debate – Ibid, Commentary, Dr. L. Adele Jinadu

¹⁰⁶² Graham Hancock, *Lords of Poverty* (1991), Madarin, London, P. 56

credit-worthily, concern areas of state involvement which can have a decidedly negative influence both directly and indirectly on the attainment of Economic Social and Cultural Rights.

4) DEBT

The debt crisis of the past decade closely linked to the adjustment process, also has direct repercussions upon the enjoyment of economic, social and cultural rights. The debt crisis led to a tremendous growth in impoverishment. UNICEF estimates that more than 50,000 children die annually as a result of the damaging debt related problems¹⁰⁶³. According to the World Bank, third world debt reached 1,351 billion dollars at the end of 1991 whereas at the beginning of the debt crisis in 1981, the debt of these countries amounted to slightly half of the above level¹⁰⁶⁴. The world debt kept increasing astronomically. As at December 2007, Nigeria debt alone has amounted to \$22,229,88 billion¹⁰⁶⁵.

The debt crisis remains an obstacle to growth and realization of economic social and cultural rights.

5) MISCONCEPTION OF THE STATE.

The legal basis upon which economic, social and cultural rights rest, essentially assumes the presence of a "strong" State and other political factors as the motor behind realizing these rights. They include but not limited to a well coordinated, efficient and corruption free, ministerial and governmental apparatus, a reasonable degree of decentralized decision making and popular participation by citizens, consistently applicable and non-politically motivated, respect for the rule of law, the existence of a good government, supported by the will of the citizenry, government wide-knowledge of and adherence to international commitments regarding economic, social and cultural rights; an economic process geared towards the progressive realization of these rights and so forth.

The world as we know it does not resemble this vision and on the contrary, tends to govern more on the basis of connections, inducements, political

¹⁰⁶³ The poverty of Nations: A guide to the Debtor crisis from Argentina to Zaire, 1991, Elmar Altvater, Kurt Hubner, Jochen Lorentzen and Raul Rojas), Zed Books Ltd, London.

¹⁰⁶⁴ NRC Handlesblad, 16 December, 1991, P. 11

¹⁰⁶⁵ Ogun State Television News, www.ogtvnigeria.com.

7) MISGUIDED VISIONS OF DEVELOPMENT

The global push for development during the past 40 years has achieved a great deal. However, it has unquestionably led to the preventable victimization of millions of the worlds' most disadvantaged groups through the external financing of huge and all too often entirely ill-conceived projects and misdirected priorities¹⁰⁷¹.

Prestige projects in particular large dams, livestock ranches massive settlement and colonization schemes and road building, each funded in part by the international financial institutions and through bilateral assistance, have led and continued to lead to mass violation of human rights all in the name of "Progress and development"¹⁰⁷².

THE WAY FORWARD

Following from the above, it does not seem far fetched to conclude that the failure of governments and virtually all models of development pursued thus far in creating conditions, whereby the society wide enjoyment of economic, social and cultural rights has occurred, indicates the pressing need for new approaches towards this category of rights.

Legal approaches, that is, making the rights legally enforceable through the courts will achieve a great deal although this must be coupled with the existence of some other political and social realities.

The underlisted factors are thereby recommended towards the realization and enforcement of the rights.

- i. Justiciability of the directive principles under the 1999 Nigeria constitution. One way that courts can be called upon to adjudicate on social economic and cultural rights is by allowing rights granted under the directive principles to be enforceable. They must be allowed to achieve their purpose.

¹⁰⁷¹ See for instance, *Funding Ecological and social destruction: The World Bank and International Monetary Fund*, Published by the Bank Information Centre, 1989

¹⁰⁷² See *Banking on Poverty: The Global Impact of the IMF and World Bank* (Jill torrie, ed) Between the lines press, 1983: Graham Hancock, *Lords of Poverty* Mandarin, 1989

"The purpose of the directive principle of state policy is to fix certain social and economic goals for immediate attainment, thus bringing about a non-violent social revolution. Through such social revolution, the constitution seeks to fulfill the basic needs of the common man and to change the structure of the society. Without faithfully implementing the Directive principle it is not possible to achieve the welfare state contemplated by the constitution.¹⁰⁷³

In the recent Nigerian case of **Federal Republic of Nigeria v. Mika Anache**¹⁰⁷⁴ the justiciability of the directive principles contained in chapter 2 of the 1999 constitution as it affects corruption was extensively considered.

In that case it was noted that section 6 vests judicial powers on the courts which are enumerated in sub section 5 section 6 (6) (c) of the constitution, provides that judicial powers shall not, except as otherwise provided by the constitution, extend to any issue or question as to whether any act or omission by any authority or persons or as to whether any law or any judicial decision is in conformity with the fundamental objectives and Directive principles of State set out in chapter 2 of the constitution.

It was stated that, the non-justiciability of section 6 (6) (c) of the constitution is neither total nor sacrosanct as the subsection provides a leeway by the use of the words, "except as otherwise provided by this constitution." This means that if the constitution otherwise provides in another section, which makes a section or sections of chapter 2 justiciable, it will be so interpreted by the courts.

It was held, that by the provision of section 6 (6) ©, reliance must be placed on item 60 (a) of the Exclusive legislative list of the second schedule to the constitution. The sub item provides;

"The establishment and regulation of authorities for the federation or any part thereof – (a) to promote and enforce the observance of the fundamental objectives and Directive principles contained in this constitution."

It should be emphasized that item 60 (a) is one of the items that the national Assembly is vested with legislative power. Putting the position nakedly, by item 60 (a) the national Assembly is empowered to establish and regulate

¹⁰⁷³ Per hodge and Mukahaya J.J (1993) (India4Scc 255)

¹⁰⁷⁴ Federal Republic of Nigeria V Mika Anache 2004 1 Supreme Court pt.2 p.27

authorities "to promote and enforce the observance of the provisions of chapter 2 of the constitution.

The court also made reference to the Indian courts on the issue of justiciability with particular reference to the case of **Mangru V Commissioner of Burge Bude Municipality (1951) CIJ 369**¹⁰⁷⁵. where it was held that the Directive principles require to be implemented by legislation, and so long as there is law carrying out the law laid down in a Directive, neither the state nor an individual can violate any existing law or legal right under colour of following a directive.

The above case which was decided by the apex court in Nigeria, is very instructive for the justiciability of economic social and cultural rights and should be followed for their enforcement¹⁰⁷⁶

Other factors that could aid the realization and enforcement of those rights are as follows;

- i. Use of the African Charter on Human Peoples Rights.¹⁰⁷⁷ It contains a number of economic social and cultural rights like the right to work under equitable and satisfactory conditions¹⁰⁷⁸, the right to enjoy the highest attainable state of physical and mental health¹⁰⁷⁹, the right to life¹⁰⁸⁰ and the right to economic social and cultural development
- ii. Expansive Interpretation of civil and political rights to include economic, social and cultural rights. In the Indian case of **Coralie v Union of India**¹⁰⁸¹ the court held, "that fundamental human right must be interpreted in a broad sense..... that the right to life includes the right to live with human dignity and all that goes with it, namely, the bare necessities of life such as adequate nutrition, clothing and shelter over the head. This mode of interpretation should be adopted in Nigeria.

¹⁰⁷⁵ Mangru V commissioner of Burge Bude municipality (1951) CIJ, 360.

¹⁰⁷⁶ See also Baena Ricardo et al (270) workers V Panama Article 15, Ibid

¹⁰⁷⁷ The African charter on Human and Peoples Rights was adopted in Nairobi on 26th June, 1981 and came into force on 21st October, 1986. it was ratified and incorporated into the laws of Nigeria by the Enforcement and

Ratification Act, chapter 10, Laws of the Federation of Nigeria, 1990.

¹⁰⁷⁸ Article 16 (1) (2), Ibid

¹⁰⁷⁹ Article 17 (1) (2), Ibid

¹⁰⁸⁰ Article 22 (1), Ibid.

¹⁰⁸¹ Coralie v Union of India, 1982 11R, Supreme Court 746

- iii. Use of other legislation other than the constitution and the Africa Charter. Examples include the Labour Act (regulating the regime of employment), factories Act, regulating health and safety rules in employment) and so on.
- iv. Provision of basic amenities in every part of the country, putting credible people in government so as to tackle the issue of corruption and educating citizens to know their rights.
- v. Examining government budgets so as to press governments to meet their human rights obligations¹⁰⁸², documenting abuses of government duties such as forced eviction by human rights organizations in form of letter writing or budgetary analysis and so on.
- vi. Humanising Adjustment.
This involved substantially increasing the level of and quality of popular participation particularly by the social sectors negatively affected by the adjustment policy and providing greater institutional transparency within the international institution and levels of national government negotiating adjustment.
- vii. The autonomy of the citizens must also be encouraged to ensure the efficient provision and more equitable distribution of goods and service¹⁰⁸³. The local governments must also be allowed to play their role so as to promote popular participation in the development process¹⁰⁸⁴.
- viii. Remembering cultural rights.
Ethnic minorities must be recognized for the survival of the communities. Their rights must be effectively fostered and not only passively and reluctantly protected.
- ix. Financial Institutions.
The World Bank should be encouraged to strengthen and further develop its policies related to poverty reduction and policies intended to address the social aspects of adjustment. Special measure should be taken to ensure that policies, programmes and projects supported by the bank do not adversely affect economic, social and cultural rights.

¹⁰⁸² www. Iie. Org.

¹⁰⁸³ UNDP Human Development Report, 1991, P.71

¹⁰⁸⁴ "Rethinking Local Government; views from the third word", Environmental and urbanization vol. 3, No 1,

April 1991, p.3 see also UNDP Human Development report, 1991, P.61-65.

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The international monetary fund should also endeavour to assure that relevant social concerns are adequately addressed at the design and subsequent stages of the structural adjustment process.

Cooperation between the World Bank, the International Monetary Fund and human rights organizations should be strengthened.

NON-GOVERNMENTAL ORGANIZATIONS:

International non-governmental organizations must be encouraged to increase their contributions to the United Nations Organs dealing with economic, social and cultural rights in terms of information and detailed analysis of the degree to which economic social and cultural rights are released in different sections.

National and local non-governmental organizations should strengthen their promotion of awareness of the existence of economic, social and cultural rights particularly among low income social groups, undertake field research, promote the use of available legal remedies, and participate actively in establishing new legislation or policies affecting the realization of these rights.

CONCLUSION

Poverty which is the result of denial of economic social and cultural right is not natural and is only comparable to slavery and apartheid. It is man made and can only be overcome and eradicated by the actions of human beings that created it.

Overcoming poverty is not a gesture of charity. It is the protection of fundamental human rights, the right to dignity and decent life.

The article has been able to establish that economic social and cultural rights are not mere aspirations or goals to be achieved progressively overtime. They are not goals that can be deferred to the future. Under International Law, states have immediate obligations as well as long term duties regardless of their stage of development states must take action to fulfill economic social and cultural rights (including reviewing their laws and policies) and must refrain from violating those rights. Government must also regulate the behaviour of individuals, business and other non-state actors to ensure that they respect human rights¹⁰⁸⁵.

Human rights must be seen as one and treated as such. The ultimate goals of ensuring respect for the dignity of an individual cannot be achieved without that person enjoying all of his or her rights economic, social and cultural; civil and political inclusive. Promoting, defending and economic, social and cultural rights should therefore be an urgent priority not for individual governments but for the international community and the human rights movement and civil society as a whole.

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