

## REALIZATION OF ECONOMIC AND SOCIAL RIGHTS IN NGIERIA: CHALLENGES AND PROSPECTS

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### Abstract

*Every person is entitled to the full realization of the right to development. Development does not just consist in improving people's wellbeing, it also includes the capacity of economic and social systems to provide the circumstances for that wellbeing on a suitable basis. Development includes the protection of the economic and social rights of citizens. In Nigeria, these rights are provided in Chapter II of the Constitution under the Fundamental Objectives and Directive Principles of State Policy. There are also a plethora of international instruments which protect economic and social rights of citizens which Nigeria has ratified. Despite the existence of these laws which seek to promote the common good as well as ensuring the happiness and welfare of citizens, Nigerians have continued to suffer deterioration in their standard of living, unequal access and opportunities to resources, unequal access to education and health facilities as well as lack of opportunities to work. This study revealed that the situation in Nigeria, where there is lack of enjoyment of equality of rights, obligations and opportunities for all persons amount to a violation of the social and economic rights of citizens. In conclusion, it observed that the suppression of equal participation in socio-economic activities in Nigeria, is as a result of corruption, poor management of natural resources and the non-justiciability of Chapter II of the Constitution of the Federal Republic of Nigeria 1999(as amended). It is therefore recommended that Nigeria should amend her laws to make Chapter II of the Constitution justiciable so that citizens can enforce their social, economic and cultural rights, diversify her economy to promote job creation and poverty reduction and take adequate steps to strengthen her institutions in the fight against corruption.*

### 1.0 Introduction

The economic and social rights of citizens in Nigeria are provided in domestic as well as international instruments. Nigeria is a member of the United Nations Organization. The United Nation's General Assembly in December, 1948, adopted the Human Rights Universal Declaration. The Declaration restates civil and political rights of individuals and introduced the second generation rights which are economic, social and cultural rights such as the right to work, social security, education, the right to development and self-determination. The Declaration states that these rights are indivisible, interrelated and interdependent. That the improvement of one right facilitates the advancement of others and the deprivation of one right

reduces the improvement and enjoyment of the others. The principles of the Universal Declaration of Human Rights have been incorporated into the Constitution of almost all the United Nations members. The economic and social rights of citizens in Nigeria are contained in Chapter II of the Constitution of the Federal Republic of Nigeria 1999 (as amended). This chapter guarantees to every citizen the right of economic participation, and mandates the state to distribute her resources equitably as well as operate the economic system in such a way as to ensure that wealth or means of production is not concentrated in the hands of few individuals. There are also other International instruments which provide for economic and social rights such as the African Charter on Human and People's Right (ACHPR), the International Covenant on Economic, Social and Cultural Right (ICESCR), etc. These laws are aimed at enhancing the welfare and happiness of every individual.

Despite the existence of these laws, majority of the people in Nigeria live in abject poverty and hunger. Many people living in Nigeria do not have access to basic amenities such as food, portable water, adequate shelter and health facilities. Majority of the citizens are unemployed, and those who have jobs work under deplorable conditions and are paid below minimum wage. There is also no welfare package for the unemployed, the sick and the elderly. All these amounts to gross abuse of the human rights of the people. The infringement of the economic and social rights of Nigerians is as a result of the corruption which climaxed during the military regime when citizens were subjected to steady deterioration in their standard of living and socio-economic torture. Unfortunately, this state of affairs has continued till date and has thus manifested in poverty, hunger, and diseases which has led to the death of many Nigerians.

Before we go on to discuss the economic and social rights of citizens in Nigeria, we must attempt some clarifications and definitions of some concepts related to our study.

## **1.1 Conceptual Clarifications**

This work will attempt to define some concepts that are relevant to this study. This will enable us have a proper grasp of the topic being researched.

### **1.1.1 Rights**

Rights are socially established ways of acting or ways of being treated<sup>1</sup>. A right is regarded as a beneficial way of acting or of being treated both for the right holder and the society. Thus, rights are socially accepted, recognized and protected in given societies.

Rights have been defined as an interest or benefit recognized by law<sup>2</sup>. They are said to be claims that is wants, desires, aspirations people have and express on behalf of others and for

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<sup>1</sup> Rex Martin, *The Concept of Rights: A system of Rights* (Oxford University Press) 1997.

<sup>2</sup> J. Salmond, *Jurisprudence* (Sweet & Maxwell 3<sup>rd</sup> ed 1973 London)

themselves<sup>3</sup>. Rights are those actions and treatments which every person is entitled, and can be in the form of liberty of action, avoidance of injury or the receipt of services which includes the provision of public schooling, retirement benefits and medical care. Rights can also be defined as those essential conditions of social life without which no man can realize himself at his best<sup>4</sup>. They are said to be common and recognized claims of the people which are essential for their development as human beings<sup>5</sup>. A right is something which one is entitled to and can lay claim to. Rights can either be asserted, demanded or stood upon, and the obligations they impose are expected to be performed, as their non-performance occasion feelings of indignation, resentment and disappointment<sup>6</sup>. It is however, important that we distinguish legal rights from moral rights. A legal right is the liberty to act or abstain from acting in a specified manner or the power to compel certain persons from doing a particular thing and is enforceable by law. Moral rights on the other hand, are mere assertions of notions of right and wrong without any legislative backing<sup>7</sup>. In other words there is no legal remedy for the breach of moral rights.

### 1.1.2 Human Rights

Human rights are rights to which every person is entitled by reason of being a member of the human family<sup>8</sup>. They are those rights which every individual possesses right from birth until death. They are fundamental rights that human beings possess by the mere fact of being human, and are neither created nor be suspended or abrogated by any government<sup>9</sup>. Human rights are those specie of rights which are recognized as appertaining to man by the very nature of his humanity<sup>10</sup>. They are rights which are so fundamental to the existence of life that their deprivation makes life illusory. They include the right to life, right to liberty, freedom from torture and slavery. It also includes the right to work and education, and everyone is entitled to these rights without discrimination. Human rights are universal and inalienable rights which all human beings possess. They have also been defined as moral rights which every human being at all times, ought to have, simply because of the fact that in contradiction with other beings, he is rational and moral<sup>11</sup>. Such rights encompass civil, political, economic, social and cultural rights as well as collective rights of people.<sup>12</sup>

### 1.1.3 Economic and Social Rights

These are rights that protect the dignity and welfare of the human person. They include the right to work, right to social security, access to food, water, housing, healthcare and education.

<sup>3</sup> F E Dorwick, *Human Rights* (Saxon House 1979)

<sup>4</sup> K K Ghai, Rights: Meaning, Features and Types f Rights <<https://www.yourarticlelibrary.com> accessed 23<sup>rd</sup> March 2022.

<sup>5</sup> R Martin and J W Nickel, 'Recent Work on the Concept of Rights'. *American Philosophical Quarterly* [1980] (17)

<sup>6</sup> A Ajaegbo, 'The Rights of Women in Nigeria' <<https://www.thelawyerchronicle.com> accessed 25<sup>th</sup> April 2022.

<sup>7</sup> G W Paton, *Jurisprudence* (Oxford Clarendon Press 3<sup>rd</sup> edition 1972)

<sup>8</sup> N G Ikpeze, 'The Environment, Oil and Human Rights in Nigeria' <<https://www.ajolarticlejournal> [2011] (2) accessed 25<sup>th</sup> April 2022.

<sup>9</sup> Business Dictionary <<https://www.businessdictionary.com> accessed 25<sup>th</sup> April, 2022.

<sup>10</sup> A Ibidapo-Obe, 'Human Rights and State Security: The Nigerian Experience'. *Journal of Human Rights Law and Practice* [1995] (5) (1)86.

<sup>11</sup> G Ezejiogor, *Protection of Human Rights under the Law* (Butterworths 1964 London)

<sup>12</sup> The United Nations, 'Human Rights' <<https://www.un.org>. accessed 28<sup>th</sup> of April, 2022

They also include the right to fair wages and equal pay, the right to adequate provision of income in the event of unemployment, sickness or old age, and the right to an adequate standard of living. These rights are recognized and protected in international instruments and member states have a legal obligation to respect and protect these rights.

## **2.1 Protection of Economic and Social Rights**

There are a plethora of laws protecting the economic and social rights of individuals. This work will now examine some of these instruments which seek to promote the welfare and happiness of citizens.

### **2.1.1 Universal Declaration of Human Rights (1948)**

The Universal Declaration of Human Rights (UDHR), is a milestone document in the history of human rights. The Declaration provides for civil, political, social and economic rights. It states that all humans are free and equal, regardless of sex, colour, creed, religion and other characteristics<sup>13</sup>. The rights provided in the UDHR, include the right to be free from torture<sup>14</sup>, the right to freedom of expression<sup>15</sup>, the right to education and the right to seek asylum<sup>16</sup>. It includes civil and political rights, such as the rights to life<sup>17</sup>, liberty and privacy<sup>18</sup>. It also include economic, social and cultural rights, such as the rights to social security<sup>19</sup>, health and adequate housing<sup>20</sup>.

### **2.1.2 African Charter on Human and People's Right 1986**

The African charter on Human and Peoples Right (ACHPR), establishes a framework for the promotion and protection of human rights in Africa. The rights provided in the African Charter include the right to enjoyment of rights without distinction of any kind<sup>21</sup>, right to life<sup>22</sup>, right to dignity of the human person<sup>23</sup>, equality of all peoples, right to existence and self-determination<sup>24</sup>, right to free disposal of natural wealth and resources<sup>25</sup>, right to satisfactory and clean environment<sup>26</sup>etc. Nigeria is a signatory to African Charter on Human and people's Rights, and has domesticated it is African Charter on Human and People's Right (Ratification and Enforcement Act, Cap A9, LFN 2004). In *Abacha v Fawehinmi*<sup>27</sup>, it was held that Nigeria is under an obligation to obey and enforce the provisions of the African Charter pursuant to the

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<sup>13</sup> Article 2 of the Universal Declaration of Human Rights, 1948

<sup>14</sup> Article 5 ibid

<sup>15</sup> Article 19 ibid

<sup>16</sup> Article 14 ibid

<sup>17</sup> Article 3 ibid

<sup>18</sup> Article 12 ibid

<sup>19</sup> Article 22 ibid

<sup>20</sup> Article 25 ibid

<sup>21</sup> Article 2 ACHPR

<sup>22</sup> Article 4 ibid

<sup>23</sup> Article 5 ibid

<sup>24</sup> Article 20 ibid

<sup>25</sup> Article 21 ibid

<sup>26</sup> Article 24 ibid

<sup>27</sup> [2000] 6 NWLR 228

Ratification Act, unless the provisions have been expressly suspended or repealed by a later statute. By this provision, Nigeria is under an obligation to protect the economic and social rights of citizens.

### **2.1.3 International Covenant on Economic, Social and Cultural Rights:**

The International Covenant on Economic, Social and Cultural Rights, also recognizes the right of everyone to enjoyment of just and favorable conditions of work which include fair wages, equal remuneration for work, equal pay for equal work, safe, humane and healthy working conditions, equal opportunity for promotion in employment to an appropriate higher level without any consideration other than seniority and competence<sup>28</sup>. It also provides for the right to an adequate standard of living for himself and his family including adequate food, clothing and housing.

### **2.1.4 Constitution of the Federal Republic of Nigeria 1999 (As Amended)**

The economic, social and cultural rights of citizens in Nigeria are contained in chapter II of the Constitution of the Federal Republic of Nigeria 1999 (as amended).

Section 16(1) of the Constitution, provides for economic objectives by requiring the state to harness the resources of the nation and to promote national prosperity in an efficient, dynamic and self-reliant economy.

Sec 17(1) of the Constitution, provides that the state social order is founded on ideals of freedom, equality and justice.

The protection of economic and social rights of citizens is founded on the principle that government is a social contract between the ruler and his subjects. Rulers are by this contract expected to pursue appropriate laws that will ensure the happiness and welfare of their citizens. The citizens in turn give the rulers the rights to govern them if their happiness, social well-being, freedom, equity and justice are guaranteed. In other words people have the right to reject government which violates the social contract binding on the leaders and their citizens<sup>29</sup>.

However, these rights provided in Chapter II of the Constitution are not enforceable in Nigeria by the provisions of Section 6(6)(c) of the Constitution. As a result, successive Nigerian governments have done little in the protection of social, economic and cultural rights of citizens. Thus, these rights are regarded as a 'neglected category of human rights.

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<sup>28</sup> Article 7 International Covenant On Economic Social And Cultural Rights:

<sup>29</sup> USF Nnabue, *Law and Legal Process* (1<sup>st</sup> Ed Global Press limited Owerri, 1999)

### **3.1 Challenges to Realization of Economic, Social and Cultural Rights in Nigeria**

#### **3.1.1 Corruption**

Corruption is a major obstacle facing the attainment of socio-economic rights in Nigeria. Corruption hinders development and economic empowerment of citizens<sup>30</sup>. It encourages an increase in public spending and a decrease in public revenue generation which prevents the actualization of social, economic and cultural rights of people living in Nigeria. Corruption has been defined as an act of taking and giving a bribe, acquisition of wealth illegally from the resources of the nation and exercise of discretion by those in position of authority for personal benefits<sup>31</sup>. It is also seen as an anti-social behavior by a group of individuals which confers fraudulent or unjust benefits on its perpetrators, which violate established legal norms and moral beliefs of the society or diminish the general wellbeing of citizens<sup>32</sup>. Dworkin<sup>33</sup>, rightly opined that third world societies especially those in Africa hardly take rights seriously, and those in power do not distinguish between private and state funds. Nigeria realizes huge revenue from oil and other natural resources, however, corruption has hindered the enormous potential inherent in the oil industry. This has resulted in lack of economic opportunities for the people, poor reward system, rising unemployment and absence of the rule of law.

#### **3.1.2 Lack of Population Control**

Another factor affecting the realization of economic and social rights of citizens in Nigeria is the inability of government to control the population growth. The population of a country has far reaching implications for change, development and the quality of life of individuals. A rapid increase in population exerts pressure on the ecosystem leading to issues around food security, land tenure, water supply and environmental degradation<sup>34</sup>. It will also put more burden on the government to provide more social and economic infrastructure. Thus, the higher the rate of population, the more difficult it is to meet the economic and social needs of citizens. A country like Nigeria, with an exponential increase in population will certainly face problem of urbanization, such as increase in demand for food, water, health care, education, housing and other services. The problem becomes worse when the population growth does not correspond with economic growth, then citizens begin to suffer economic deprivation.

Attempts by the government to control population by adopting the National Population Policy in 1988, was unsuccessful because the culture and religion of Muslims in Northern Nigeria permit early marriage and early child bearing. Islam also permits a man to marry up to four

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<sup>30</sup> O Timothy, Corruption and the Implementation of Sustainable Development Goals in Nigeria: An Overview <https://www.researchgate.net> accessed 14<sup>th</sup> December 2022.

<sup>31</sup> F A Olasupo, *Due Process Corruption in Public Service in Nigeria: Local Government as a Case Study* in O Aborisade, and I O Aransi, (eds) *Public Administration in Nigeria, USA*: (Ataw Publishing Company 2009)

<sup>32</sup> S O Osoba, 'Corruption in Nigeria: Historical Perspectives' *Review of African Political Economy* [1996] (69)23 .

<sup>33</sup> Dworkin, *Taking Rights Seriously* (Faber and Farber London 1977).

<sup>34</sup> A T Sheha, *The Enforcement of Social and Economic Rights in Africa: the Nigeria Experience* <https://www.wjcl.info> accessed 22<sup>nd</sup> December,2022

wives. The inability to control the population has made it difficult to secure the economic rights of people. Furthermore, illiteracy, especially among women also contributes to the surge in population. The education of women will not only help to embrace modern methods of child spacing but will also encourage positive cultural practices.

### **3.1.3. Lack of Proper Planning and Poor Policy Implementation**

Another impediment to achieving economic rights in Nigeria is lack of proper planning and poor implementation of policies by policy makers. The government of Nigeria does not take proactive measures in solving people's problems but only take reactive measures in cases of emergency. For example, majority of the states in Nigeria are increasingly suffering from annual flood during rainy seasons. This problem can be controlled by proper urban planning and the provision of adequate environmental infrastructure<sup>35</sup>. However, the absence of a proper National Flood Risk Management (FRM) strategy or comprehensive flood risk maps are indicators of the lack of attention paid to the flooding problem. Furthermore, the failure of policy makers to take the social, political and economic environment into consideration when analyzing policy implementation also adversely affects the economic and social rights of citizens.

### **3.1.4 Non Justifiability of Chapter II of The Constitution**

Economic and social rights of citizens are provided in Chapter II of the Constitution of the Federal Republic of Nigeria 1999 (as amended). This chapter provides for the social objectives of the state to its citizens.

Section 14(2)(b)<sup>36</sup>- provides for the security and welfare of the people. It also provides that the state shall harness the resources of the nation and promote national prosperity and self-reliant economy<sup>37</sup>. It equally provides for suitable and adequate shelter, food and welfare for all citizens<sup>38</sup>. That state social order is founded on ideals of freedom, equality and justice<sup>39</sup>. It provides for the health, safety and welfare of all persons, and that there is equal and adequate educational opportunity for all at all level<sup>40</sup>. However, Chapter II of the Constitution is not justiciable and therefore cannot be enforced by virtue of the provisions of Section 6(6)(c) of the Constitution. The effect is that there is violation of the economic and social rights of citizens in Nigeria.

## **4.0 Problems of Violation of Economic and Social Rights in Nigeria**

An examination of the life of the people living in Nigeria shows that the country is not found on the ideals of freedom, equality and justice which are the basis on which the social objectives

<sup>35</sup> A J Echendu, 'The Impact of Flooding on Nigeria Sustainable Development Goals', *Ecosystem Health and Sustainability* [2020](6)1

<sup>36</sup> Section 14(2)(b) Constitution of the Federation Republic of Nigeria 1999 (as amended)

<sup>37</sup> Section 16(1)(a) *ibid*

<sup>38</sup> Section 16(2)(d) *ibid*

<sup>39</sup> Section 17(1) *i bid*

<sup>40</sup> Section 18(1) *i bid*

of state policy are articulated. The sanctity of the human person is not recognized and human dignity is not enhanced. Despite the abundant natural resources in Nigeria, millions of people live in abject poverty, hunger and suffer economic deprivation. Poverty does not only include material deprivation but also other forms of deprivation such as employment, ill-health, lack of education, vulnerability and social exclusion<sup>41</sup>. It also includes low income per capital, inadequate shelter or housing, poor working conditions, economic deprivation and marginalization of certain groups. In Nigeria, opportunities for securing adequate means of livelihood and suitable employment is discriminatory, because it is not based and equity, fairness and justice. The effect is that there is insecurity and increased crime rate as most people indulge in Kidnapping, cybercrime and other social vices for survival.

Kidnapping is associated with the endemic rate of youth joblessness. The lack of employment opportunities in Nigeria, have forced many people to engage in kidnapping for profit making as victims are released after payment of ransom by loved ones. It has been rightly said that when people become desperate for food and other necessities they will steal and even kill to get what they need<sup>42</sup>. Kidnapping which is manifested in various forms such as militancy, hostage taking, kidnap of oil workers and ordinary citizens affects the free movement of people and the social economic development of the country.

Furthermore, the lack of employment opportunities for the youths has increased the growth of internet crime such as phishing, spamming, identity theft, credit card fraud, ATM Frauds etc. Due to economic deprivation, online fraud is seen as a means of economic sustenance by the youths. According to the American National Fraud Information Centre, Nigerian cyber-crime impact per capital is exceptionally high<sup>43</sup>. The effect is that it has dented the image of Nigeria on the global scene and resulted in the loss of investment in the country.

## **5.0 Recommendation**

### **Proper Management and Distribution of Resources**

The attainment of Economic and social rights is dependent on a fair and equitable distribution of resources. Efforts must therefore be made to ensure that every Nigerian is given equal opportunity for development and to also ensure that every one has access to basic amenities such as qualitative education, health care, food, housing and the opportunity to earn a living. Proper management of resources also requires the formulation of stable and durable economic policies that guarantee peoples economic and social rights as prescribed in the Constitution and

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<sup>41</sup> W John, Proliferation of kidnapping in Nigeria: Causes and Consequences <https://www.isinternational.org> accessed 20<sup>th</sup> January, 2023.

<sup>42</sup> S A Olulowo, An Examination of the Causes of kidnapping and its Attendant Challenges in Ogun State Nigeria <https://www.wajol.info> accessed 20<sup>th</sup> Jan 2023.

<sup>43</sup> Y A Makari, 'Cyber Security Issues in Nigeria and Challenges'. *International Journal of Advanced Research in Computer Science and Software Engineering* [2017]. (7) (4)3.



not the ones framed to cater for the wellbeing of the political class<sup>44</sup>. Government should therefore introduce free education up to secondary education for citizens, provide free health care for the sick and elderly and provide affordable housing for the poor.

### **Investment in Mechanized Agriculture**

Government should strengthen the economy by investing in mechanized agriculture and other sectors of the economy in order to generate more revenue for development. The attainment of economic rights requires a robust and dynamic economy. This is because economic and social rights such as job creation, poverty reduction, social infrastructure, food, adequate health care, quality education, and housing require huge capital to execute. A versatile economy is therefore necessary for the protection of economic, social and cultural rights of citizens. Government should also expand the industrial sector by giving loans and incentives to small scale businesses in order to create jobs and improve the standard of living of the people.

Government should also encourage the expansion of Agro-Allied industries by giving loans to those that venture into Leather industries, vegetable oil, ethanol manufacturing, animal feeds etcetera in order to create jobs and reduce poverty. Nigeria should also formulate policies that use science and technology to transform her economy. The level of science and technology development is what differentiates a developed nation from a developing nation. Therefore, Nigeria needs technology to exploit all her resources.

### **Strengthen the Anti-Corruption Agencies**

Nigeria should intensify the fight against corruption by strengthening the anti-corruption agencies such as EFCC and ICPC. The powers of these agencies should be properly spelt out in order to avoid duplication and overlap of duties by these agencies. Government should also ensure that political office holders who are charged with corruption are successfully prosecuted without interruptions. This will help to ensure financial discipline and transparency in office as well as make them accountable to citizens for the protection of their economic and social rights.

### **Amendment of the Constitution**

It is also recommended that the Constitution should be amended to make Chapter II justiciable. This is because the enjoyment of the rights contained in Chapter IV of the Constitution is dependent on the attainment of the rights contained in Chapter II of the Constitution. The Protection of the rights in Chapter IV presupposes that the rights in Chapter II should be justiciable. Therefore, we recommend that the Constitution should be amended to make the economic, social and cultural rights provided in chapter II enforceable. This will help to ensure

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<sup>44</sup> G Amold, *Modern Nigeria* (Longman London 1994)



that citizens can enforce their rights to welfare and adequate standard of living just like the rights provided in chapter IV of the Constitution.

## **6.0 Conclusion**

This paper revealed that the living experience in Nigeria is not founded on the ideals of Freedom, equality and justice. It also observed that Government actions are inhumane and there is high insensitivity to the yearnings of the people. Conditions of work are very unjust with different motivations for the same work. There is no protection for the aged, the sick and young persons, lack of social infrastructures and no opportunity for development. This phenomenon has led to an increase in crime rate and insecurity in the country which has eroded the trust and confidence of investors. The effect is more economic woes and hardship on the people. The paper also observed that the major causes of the gross abuse of the economic and social rights of persons living in Nigeria are corruption, lack of proper management of natural resources and the non-justiciability of chapter II of Constitution amongst others. The paper therefore recommended that in order to ensure the attainment of the social, economic and cultural rights of people living in Nigeria that the rights provided in chapter II of the Constitution, should be made enforceable by citizens.