IMPACT OF NIGERIAN LEGAL SYSTEM ON THE ADMINISTRATION OF SOCIAL JUSTICE: A CRITICAL ANALYSIS

BY

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Abstract

In modern societies there are laws, rules and regulations and corresponding system of enforcement. Nigeria had centuries ago adopted the received English law, enacted several legislation and the Constitution with a view to regulating all kinds of human activities. Apropos, the Nigerian Legal system consists of all the laws and the Constitution made to serve different purposes including the establishment of organs of government, institutions that constitute the fulcrum for the prescription of rights, duties, obligations and remedies arising from any breach. On the part of the government certain basic amenities are expected to be provided for the citizens as guaranteed under chapter II of the 1999 Constitution of Nigeria known as fundamental objectives and directive principles of state policy. Complementing the provisions of chapter II are the federal character principles and the social objectives injected into the Constitution, all designed to enthrone justice, equality, equity, fairness, access and opportunity to participate in governance etc. This paper has therefore, with the aid of case law and statutory provisions critically examined the performance of the organs and

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institutions of government in relation to the administration of social justice in Nigeria. In another breadth the paper looked at the impact of government policies in ensuring that the parameters of social justice are reasonably applied by government, institutions as well as individuals. Finally, the impact of large scale corruption in all the facets of Nigerian Society as an impediment in the administration of social justice was examined. Government policies should be fashioned or modeled towards captivating the good of the people in all ramifications.

KEYWORDS: *Legal System, Social Justice, Human Rights, Government Policies, Corruption.*

Introduction:

Social Justice occupies a critical position in the life of every human being in any contemporary society and it is sacrosanct with fundamental human rights. A legal system which consists of laws, Constitution, rules and regulations as well as the institutions established thereof are meant to propel the dynamics of their operations to meet the various channels of social justice administration. Thus, federal, state and local government apparatus and government policies should as a matter of priority place social justice on a front burner of governance at all times.

The level of corruption in Nigeria is devastating, monstrous and alarming to the extent that the economy of the Nation is eroded and that puts a question mark as to how the proposed social objectives in the constitution can be maintained. Furthermore, there is the need to strictly adhere to the Federal character principles enshrined in the Constitution for the benefits of Nigerians no matter who is involved. This requires treating

everybody equally no matter the geographical area he or she belongs or by virtue of the circumstances of his or her birth. Accordingly, government policies should be fashioned towards captivating the good of the people in all ramifications. Corruption must be fought frontally because it depletes the economy, impairs integrity, renders the country economically impotent and hamstrung, thereby denying citizens the provision and enjoyment of social amenities.

From the decided cases examined in this paper it does appear that much is still needed to be done under the system to achieve the required goal of effective administration of social justice in Nigeria. The effect of corruption on the administration of social justice in Nigeria is heartrending, and nothing seems to be done to improve on the situation. The interplay between social justice and government policies, fundamental human rights: principles of federal character, impact of corruption and the provisions of the 1999 Constitution of Nigeria as well as possible solutions to the problem have all been articulated in this paper.

Conceptual Clarifications

Law

The Black's Law Dictionary[1014] defines law thus:

> "That which is laid down, ordained or established. A rule or method according to which phenomenon or actions co-exist or follow each other. Law in its generic sense is a body of rules

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[1014] See Black's Law Dictionary (with pronunciations) Sixth edition, Centennial Edition (1891-1991) Page 884

> of action or conduct prescribed by controlling authority and having binding legal forces: That which must be obeyed and followed by citizens subject to sanctions or legal consequences is a law. Law is a solemn expression of the will of the superior power of the state".

A careful deduction from the definition or meaning of law as postulated by the learned authors of Black's Law Dictionary shows that the traditional system which encapsulates norms and culture, ethos and mores of the people are accommodated by the above definition of law. Looking further to proffer the definition or meaning of a legal system, the same conclusion applies to the effect that the received English laws, native customs, whereby the chiefs and traditional rulers as arbiters were engaged in adjudication processes. The modern ways of life has also necessitated the introduction of modern legal system hence we now have a legion of laws to carter for vagaries of human activities for purposes of ensuring that there is justice, equity and unity. It is worthy of note that the received English law did not abolish the native laws and customs except those which the colonial masters christened repugnant to natural justice, equity and good conscience. The native laws and customs which are not affected by the repugnancy test still remain part of the legal system till date in Nigeria. Unfortunately most of the English laws they introduced and coerced Nigerians to assimilate are still with us while the English men have for decades ago jettisoned them. The application of the repugnancy test was prominent in

the case of *Edet Vs. Esien*[1015]. The facts of the case where a man married a woman under the native law and custom, paid bride price which is the major symbol and ingredient of traditional marriage in the area. The woman later left the husband and in the process became pregnant for her new lover. The husband claimed ownership of the child on the ground that the tradition allows that since the bride price had not been returned to him. The court, applying the repugnancy test, held that the custom which allowed a man who is not the natural father of a child to claim ownership of the child was repugnant to natural justice, equity and good conscience. That was a celebrated case at that time. However, the rationale behind the decision and application of the repugnancy test is that it seems to cure the possibility of rendering the child a bastard or putting the issue of paternity in question at the time the child has grown up to adolescence. The truth now is that the repugnancy test introduced into Nigeria by the whites as essentially the ambit of the customary law in those affected areas where the practice was predominant, like, the South South and some parts of the South East of Nigeria. Again one thing that is certain and indeed consoling is that societal changes have also ushered in new laws including the amendments of the 1999 Constitution of the Federal Republic of Nigeria up to the fourth alteration. Other reforms have been embarked upon to wit: The amendment of the Electoral Act in 2022; Administration of Criminal Justice Act in 2015, the Evidence Act 2011; the Proceeds of Crime (Recovery and Management) Bill 2022 and so on.

[1015] 1932) II NLR47

Legal System

A legal system has been defined by Ese Oghene Ofejiri Malemi[1016] as follows:

> The term "Legal System" means the law, personnel of the laws, courts, and the administration of justice system in a given state, country or geographical entity. Essentially, a legal system is composed of the above four elements. Therefore, Nigerian legal system is the laws, courts, personnel of the law and the administration of Justice System in Nigeria.

In concluding on this aspect of the paper one finds safety in saying that a legal system of a country consists of the laws, rules and regulations, native laws and customs that are set out by the appropriate institutions or bodies to so do for operations in given society like Nigeria. The parameter and mechanism in the administration of social justice would therefore be anchored on these elements of a legal system. A healthy and positive legal system is a sine qua non for the attainment justice through law. Which is an instrument for the enthronement of justice, fairness, equity, social security, unity and above all an effective administration of social justice.

Social Justice:

"Social justice is known to us to mean fair treatment and equal opportunity for all to enjoy social amenities and all the facets of

[1016] Ese Oghene Otojiri Malemi, The Nigerian Leaugue System (Test and Cases) 1999, Page 2.

social life"[1017]. It concerns the obligations and responsibilities of citizens to the State and vice versa. In other words, the State owes certain obligations to its citizens, while the citizens in turn are expected to perform certain roles. The end is to achieve common good.

[1018]Savon Barttey proposed what we described as "isms" representing abuse of the concept. According to him, "social injustice is an act that violates one's rights based on factors out of their control. As a result, these violations are labeled "isms" of the world (i.e. racism, sexism, ageism, classism, ableism and heterosexism. Change-makers have done their best to fight this oppression by: promoting diversity; educating the public on oppression; and having an inclusive mindset. However, the long-lasting change falls on agencies that are responsible for public policies". Bartley went further to postulate that there are four principles which helps define social justice namely: human rights, access, participation and equity. Consequently, human rights and social justice can be described as inseparable pair.

The Corporate Finance Institute (CFI)[1019] team in an updated comment made a further in road on the position when they declared on the 8 day of May, 2022 thus;

> *"The concept of social justice first arose in the 19th century during the industrial revolution as attempts were made to promote more egalitarian societies*

[1017] Ekumankama, D.U., The Law and Development of Local Development of Local Government in Nigeria, 1996, Makurdi, page 58.

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[1019] CFI-corporatefinanceinstitute.com

> *and reduce the exploitation of certain marginalized groups due to the vast disparity between the rich and poor at the time. Social justice initially focuses on uses such as the distribution of capital property and wealth due to the extreme levels of inequality and economic distress prevalent at the time, resulting from the European social class structure. Today social justice has shifted towards a stronger emphasis on human rights and improving the lives of disadvantaged and marginalized groups that have historically faced discrimination in society".*

In a way supporting the illuminating declaration of CFI (supra), the past President of Ontario Regional Council Jim Paddon[1020] said: *"The society opposes discrimination of all kinds and strives through charity to foster new attitudes of respect and empathy for the weak, for people of different culture, religious and ethnic origins, thus contributing to the peace and unity of all the peoples of the word"*

We find solace in concurring with all the scholars and social justice proponents as painstakingly presented above. With the amalgam of social justice and human rights, it is clear that one cannot exist without the other. The collection of human rights as enshrined in the 1999 Constitution of the Federal Republic of Nigeria extensively supports the assertion which is the same posture adopted in modern jurisdictions. On the part of the State, it is her duty to provide good roads, good drinking water, good

[1020] SSVP Ontario Social Justice - SSVP.on.ca

health care delivery, proper education, good shelter, full employment opportunities, etc. These are the basic things needed to make life meaningful. On the other hands, citizens should pay taxes and rates, obey laws and discharge their responsibilities.

Having said this, the critical issue is that government should be fair in the distribution of resources to the people. The dignity of man is founded on his worth, on value and fair treatment by neighbors as well as government. In an illuminating comments by a proponent of social justice:

> *"A man is worth whatever is his due. Justice is thus founded on worth and value. Every human being is a valuable creature of God. He is a sacred being, an inviolable entity. Justice is therefore, a sort of indebtedness. It is a debt we owe the other person, because of his worth, his humanity. The Bible commands us to love one another, but justice asks that if we cannot love him, at least, we do not injure him. Anything that constitutes an injury to our neighbour is thus an act of injustice. The law cannot compel us to love our neighbour, but it can prevent us from injuring him"*[1021].

In another breadth, Osita Eze[1022] is of the view that the functions of Government should include:

[1021] The Honourable Justice Chukwudifu Oputa: Oputa: Government, Law and the Challenge of Social Justice". Being paper presented at the National Seminar on "The Law and Local Government Administration in the Third Republic" at Port Harcourt International Airport Hotel, Omagwa, Port Harcourt, 13th- 15th May, 1991.

[1022] Eze, Osita: "Constitutional, Legal and Politics Functions of Local Government Councils" Being a paper presented at a Seminar/Workshop on the Administration of

- The principles of democracy and social justice which recognizes the sovereignty of the people.
- The economic policy that ensures that maximum welfare, freedom and happiness of every citizen on the basis of social justice and equality of status and opportunity…
- Principles of social order – based on equality of rights, sanctity of the human person, just and humane conditions of work, safeguard of the health, safety, and welfare in employment, adequate medical care facilities for all person, equal pay for work without discrimination based on account of sex (or circumstances of birth)….etc..;
- Educational policy that ensures the provisions of equal and adequate educational facilities at all levels which should be free, depending on available resources and their proper management and that
- Political action should avoid discrimination inter alia on the basis of sex, religion, place of origin or which part of the local government the individual or group(s) comes from.

Local Government under the Laws, at Concorde Hotel, Owerri, 22nd 23rd August, 1991.

The above principles enunciated by Eze, apply to all tiers of government, be it local, state or federal. It is hoped that the background given under this introductory part of the paper makes the subject clearer. We will now proceed to consider the legal and institutional framework involved in the administration of social justice in Nigeria.

Constitutional and Legal Framework

Section 14 (1) of the 1999 Constitution provides that the Federal Republic of Nigeria shall be based on the principle of democracy and social justice. Furthermore, Section 14 (2) makes the provision for security and welfare of the people to be the primary purpose of government.

Social Objectives

The makers of the 1999 Constitution had taken into consideration the need for a new social order to complement its section 14 (1) (supra). Accordingly, section 17 provides as follows:

(1) The State social order is founded on ideals of freedom, equality and justice.

(2) In furtherance of the social order

(a) Every citizen shall have equality of rights, obligations, and opportunities before the law.

(b) The sanctity of the human person shall be recognized and human dignity shall be maintained and enhanced

(c) Governmental action shall be humane

(3) The State shall direct its policy towards ensuring that

(a) All citizens without discrimination of any group whatsoever, have the opportunity for securing adequate

means of livelihood as well as adequate opportunity to secure suitable employment.

(b) Conditions of work are just and humane, and that there are adequate facilities for leisure and for social, religious and cultural life.

(c) Health, safety, and welfare of all persons in employment are safeguarded and not endangered or abuseed.

(d) There are adequate medical and health facilities for all persons.

(e) There is equal pay for equal work without discrimination on account of sex, or on any other ground whatsoever, etc.

Section 18 makes it mandatory for government to direct its policies towards ensuring that there are equal and adequate educational opportunities at all levels. This does not give exclusive right to government on matters concerning education. Other persons or organisations have rights to provide similar or different educational facilities like government. The general idea is to even complement the efforts of government and to create sufficient room for competition and performance. This is the position taken by some courts in Nigeria. In *Okogie Vs A.G of Lagos State*,[1023] the court held that the running, management and operation of private schools would reasonably be construed as being activities concerned directly with production, distribution, and exchange of wealth in which every Nigerian citizen could

[1023] Okogie (Trustees of Roman Catholic Schools) & ors V.A.G of Lagos State (The private school case)(1981) i.n.c.l.r 218

engage[1024]. In *Pierce Vs. Society of Sisters of the Holy Nature of Jesus and Mary,*[1025] the comment was that government's attempts to provide equal and adequate educational opportunity must not prejudice an individual running a private school or citizens bringing up their children in the best tradition and manner they think fit.

Although, these are vital provisions that are expected to safeguard the dignity of human person, it is unfortunate to note that the provisions are not justiciable. In other words, failure of government to provide for them does not entitle a citizen to seek for a remedy in the court of law. Section 6 (6) (c) of the Constitution provides as follows:*"The judicial process vested in accordance with the foregoing Provisions of the section shall not, except as otherwise provided by this Constitution, extend to any issue or question as to whether any act or omission by any authority or person or 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 II of this Constitution".*

"Section 6 (6) (c) clearly supports the view that the provisions in Chapter II of the Constitution are not justiciable.

Apparently, Chapter II of the Nigerian Constitution constitutes an attempt to domesticate the provisions of the International

[1024] See the 1999 constitution made simple, 3rd Edition, by Law Quest Publishing Company Ltd Pages 54 – 56.
[1025] 268, US.510 1925

Covenant on Economic, Social and Cultural Rights, as declared by the United Nations.

Part II, Article 2 of the Covenant prescribes for economic and social rights without discrimination of any kind as to race colour, sex, language, religion, political or other opinion, National or social origin, property, birth or other status.

Part III Article II (i) declares that "the state parties to the Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.

The question is to what extent will the provisions of Chapter II of the Constitution remain unjusticiable. Under the Military there is no doubt that nobody will be talking about justiciability. The situation should however be different under the democratically elected government, whose principal actors and operators swore to uphold the provisions of the Constitution. Even before being elected as ruling parties, the Political Parties entered into contract with the people when they anchored their campaign manifestos or objectives to comply with the provisions of Chapter II of the Constitution.

This proposition is no more novel as Nigerian courts are becoming more liberal, in their approach in situations where there is breach, or an attempt to breach the provisions of Chapter II[1026].

[1026] See the following cases:
Badejo Vs. Federal Ministry of Education (1990) 4 NWLR (Part 143) 354 and Chief Gani Fawehinmi Vs. Col. Akilu (1990). 10 S.C. 1. Compare with Shugaba Vs.

Nigerian courts should join their foreign counterparts and make economic and social rights justiciable. The following foreign cases are relevant:

i) Mottini Jain V. State of Kamataka[1027]

i) Coralie V. Union Territory of Delhi [1028]

Be that as it may, the point being made here is that politicians should know that politics is about power, how to win and how to retain it. To retain power entails satisfying the people that elected those who are in power. Accordingly, Chapter II of the Constitution should be strictly taken as a guide and standard for assessing political actions at all tiers of government. The problem of this great country lies in the hands of Nigerians, and not foreigners. Nigerians are the sole architects of their destiny.

Honourable Justice Oputa[1029] echoed this position when he said:

> *"The fault dear countrymen are not in our stars, but in ourselves. It is not in our previous constitutions, but in our failure to cultivate obedience to law culture. If all of us have learnt the lesson and acquired the virtue of reverence to law, respect for and reverence to the existing social laws, then we can correct our social and economic mistakes within the parameters of any existing Constitution".*

Ministry of Internal Affairs (1981) NCLR H59. Archbishop Okogie & Co. Vs. A.G. Lagos State (1981) 1 NCLR 218 and Adewole Vs. Jakande (1981) 1 NCLR 262.

[1027] AIR (1992) Supreme Court 1964 (APP.6)
[1028] AIR (1981) SUPREME COURT 746 (APP.5)

[1029] Oputa, Chukwudifu, Supra.

We think that a word is enough for the wise. It is for the political class to hear and save Nigerians from unnecessary agony of large-scale unjust treatment and poverty.

Social Justice and Government Policies

At one time or the other successive governments of Nigeria have fashioned out socio-economic policies aimed at instituting a healthy social order. For instance, general Ibrahim Babangida's regime recognised the need to pursue social justice through economic recovery when he said:

> *"Whatever is imposed by the Structural Adjustment Programme (SAP), and we know that there is hardship, but whatever hardship there is, is adequately matched by the determination of this administration to continue with an imaginative social programme not only to ease off the burden of SAP, not only to hasten economic recovery, but to pursue social justice for which we unwaveringly stand".*

The social programme experimented by that administration under the Structural Adjustment Programme (SAP) were the Primary Health Care Scheme, the Better Life for Rural Dwellers, the Educational Scheme for Normadic People, and the Mass Literacy. In order to realise the dividend of these programmes the Directorate of Food, Roads and Rural Infrastructure (DFRRI), the Peoples Bank, National Commission for Women and Task Force on Mass Road Transportation (Mass Transit) were established. For lack of space, no attempt is made in this paper to analyse the efficacy of these programmes in promoting social justice. Be that

as it may, there were no reasonable successes recorded, hence their quick extinction. In 1987, General Olusegun Obasanjo, one of the strong critics of SAP had this to say:

> *"Adjustment is part of the process of existence of any human being or human institution. It is part of our daily experience. But adjustment must have human face, human heart and milk of kindness and must not ignore what i call human survival and dignity, issues of employment, food, shelter, education and health",*[1030]

Other programmes like Operation Feed the Nation (OFN) and Green Revolution which aimed at enhancing agricultural activities in Nigeria had been experimented. During his time, President Obasanjo announced his economic blueprint consisting of the following policies for economic recovery:

- Accelerated privatization;
- Governance and institutional reforms;
- Administration of justice to bring in elements of transparency.,
- Accountability and anti-corruption;
- Public sector reform[1031]

According to the President, the essence of the reforms is to ensure micro-economic stability. Although programmes on fight against human trafficking, Universal Basic Education, health care

[1030] Being part of a lecture delivered by General Obasanjo at the Nigeria Institute of International Affairs (NIIA) and published in Sunday Times, 29th March, 1992.

[1031] President Obasanjo unveils economic agenda: "The Guardian, Friday, October 24, 2003, front page.

delivery, poverty alleviation, etc. are already put in place, effort should be made by government to ensure that the benefits are felt by the people. Whatever programme is adopted by government, the crucial thing is to achieve results devoid of injustice. Let there be policies that will enhance the standard of living of Nigerians at all levels.

Social Justice and Fundamental Human Rights

The Fundamental Human Rights which are copiously enshrined in Chapter IV of the 1999 Constitution of Nigeria, though wider in content bears root from the provisions of the Articles of the Magna Carta of June, 15, 1215.

Article 12 of the Magna Carta provides: "No scutage or aid shall be increased in our kingdom except by the common council of our kingdom."

Article 30- No free man shall be taken or imprisoned or dispossessed, or outlawed or banished or in any way destroyed, nor will go upon him, or send upon him, except by the legal judgment of his peers or by the law of the "Land".

Article 40: To no one will we sell, to no one will deny, or delay right or Justice. Lastly, Article 61 provides:

> *"And we will obtain nothing from any one, either by ourselves or by another by which any of these concessions and liberties shall be revolved or diminished, and if any such thing shall have been obtained, let it be invalid and void, and we will neither use it by ourselves or by another".*

The bed rock of the promises of the Magna Carta sterns from the fact that the church of England operated an absolutely a united force that preached justice for all to enjoy irrespective of who you are. Various Constitutions of modern States are fashioned or modeled to attune with the spirit of the Magna Carta as the authorities may deem fit for their domestic operations. Looking at some cases may be helpful at this point to appreciate the fundamental impact of the Magma Carta. A case in hand is that of *Liversidge Vs. Anderson*[1032]. Here Liversidge was detained in prison under the Defence Regulations during the second world war. He instituted an action against the Anderson who was the Home Secretary then. In giving his dissenting judgment, Lord Atkins expressed in no mincing words the critical position of human rights in the following words:

> *" In view with apprehension the attitude of judges who on a mere question of construction, when face to face with claims, involving the liberty of the subject, show themselves more executives minded than the executives. In this country, amidst the clash of arms, the laws are not silent. They may be changed but they speak the same language in war as in peace. It was always been one of the pillars of freedom, one of the principles of liberty for which on recent authority we are now fighting, that the judges are no respecters of persons and stand between the subject and any attempted encroachments on his liberty by the executive, alert to see that any coercive action is justified by laws".*

[1032] (1942) A.C 2008

Chapter IV of the 1999 Constitution which adopted wholly the fundamental human rights provisions of the 1979 Constitutions clearly provides safeguards on right to life; right to dignity of human person; right to personal liberty; right to fair hearing; right to freedom of thought, conscience and religion; right to private and family life; right to freedom of expression and the press; right to peaceful assembly and association, right to freedom of movement, right to freedom from discrimination; right to acquire and own immovable property anywhere in Nigeria and right to compulsory acquisition of property.

Responding to the similar provisions in the 1979 Constitution, Justice. Belgore said:

> *"They are formidable list which if flowered to the letter would have made this country a heaven on the earth. One great advantage of these provisions is the awareness they have brought to the people of their rights. Regrettably, they have not made the people realize their obligation to one another to the state. If each person, each group, each government channeled every action to be guided by the provisions of the Constitution, then there would be human rights and social justice. The 1979 Constitution opened the gate to a flood of litigation on human rights and one cannot say such was a bad sign, it was a sign that people were conscious of their rights as much it was a beginning of the laying*

> *down of a solid foundation of social justice for the country"*[1033]

From the above declaration of the Belgore, it is not in doubt that human rights greatly constitute the corner stone of social justice. Infact both are inseparable and there are sacrosanct. Supporting Belgore are a plethora of cases concerning breach of fundamental rights in Nigeria[1034].

The justification for this statement can be mirrored to the fact that the right to life[1035], for instance, cannot stand without adequate opportunity to enjoy the highest attainable standard of physical and mental health. In the same vein the right to dignity of human person[1036] cannot be upheld without guaranteeing the right to good standard of living.

Unfortunately, social security has not been adequately addressed by any government in Nigeria.[1037] The ugly effects of poverty have, to a high extent, denied citizens of Nigeria the capacity to

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[1033] See Hon. Justice M.B. Belgore, Human Rights as the corner stone of social justice in a Journal of Contemporary Legal Problems Vol. No. , October 1990 pp75 – 76.

[1034] See the following cases:

a. Alhaji Abibatu Magaji and others Vs. Board of Castrons and Excise and others (1989) 3 N.C.L.R 552.
b. Jenebu Ojonye Vs. Aleyi Adegbudu (1983) 4 N.C.L.R 492
c. Cop, Ondo State V. Obolo (1989) 5 NWLR (pt. 120) 130, Abiola V. Federal Republic of Nigeria (1995) 7NWLR (Pt. 405) 1 etc.

[1035] See Section 33 of the 1999 Constitution.

[1036] See Section 34 of the 1999 Constitution.

[1037] See Ekumankama, D.U. "Control of Economic Crime in Nigeria". Being a workshop paper delivered at the 21st International Symposium on Economic Crime held on 10. September, 2003 at Jesus College, Cambridge, United Kingdom. In that paper lack of social security was linked to the Cause of economic crime in Nigeria.

perceive and enforce their human rights as enshrined in the Constitution. In *Carolie Vs. Union Territory of Delhi* [1038]the court held thus: *"The right to life includes the right to live with human dignity and all that goes along with it, namely, the bare necessities of life such as adequate nutrition, clothing and shelter over the head".* Carolie' s case has broadly established the inseparable relationship between human rights and social justice.

Social Justice and Federal Character Principles

One of the fundamental rights of the citizens of Nigeria is the right to Freedom from discrimination[1039]. Sub-section 42(2) provides: *"No citizen of Nigeria shall be subjected to any disability, or deprivation merely by reason of the circumstances of his birth".*

We do not intend to embark on a contest or to join issues with the popular critics on the real notion of Federal Character which has become common usage in Nigeria. But for purpose of this paper, it does appear that the principle of Federal Character as provided in the Constitution[1040] is in conflict with the right to freedom from discrimination. Federal Character is simply an importation into the Constitution the principle of preferential treatment or reverse discrimination[1041].

[1038] AIR (1981) Supreme Court 746 (App.5). Also referred to in the Nigerian Bar Journal August 2001 page 91.

[1039] See Section 42 of the Constitution.

[1040] See Section 14(3), 153 (1) (c) and Third Schedule of the 1999 Constitution.

[1041] See Chris O. Uroh: "On the Ethics of Ethnic Balancing in Nigeria: Federal Character Reconsidered in Federalism and Political Restructuring in Nigeria.

The protagonists of this principle believe that it will ensure fair play, equity and justice in the distribution of available human and natural resources. But it is also clear that over the years various sectors of government have adopted the quota system in recruitment and promotion of public servants. The same quota system has dominated the admission procedure of educational institutions. Some States have for this purpose earned the status of "educationally advanced States" while others are branded "educationally disadvantaged States". The operation of the system is that those from educationally advanced states are expected to score higher marks than those from backward States. In other words the whole essence is to give more opportunities to those from backward States to meet up with those from "advanced States". Is it therefore a crime to come from educationally advanced States of Nigeria? This is clearly a contravention of Section 42(2) of the Constitution reproduced above.

It is therefore advocated here that the principle of federal character should not be applied to the detriment of Nigerians but rather to ensure real equitable distribution of resources. In doing that, integrity, proficiency, hardwork, excellence and professionalism should not be compromised at all.

Social Justice and Corruption

Corruption has been defined as an act done with intent to give some advantage inconsistent with official duty and the rights of

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Spectrum Books Limited, Ibadan. (ed Kunle Amuwo, Adigun, A.B., Agbaje Rotimi, T. and Suberu Georges Herault) at page 192.

others. To be corrupt is to spoil, taint, vitiate, deprave, debase and morally degenerate.

In his inaugural speech as the President of Nigeria, Olusegun Obasanjo vehemently condemned corruption when he said:[1042]

> *"Corruption, the greatest single bane of our society today, will be tackled head on all level… One of the greatest tragedies of the Military rule in recent time is that corruption was allowed to grow unchallenged and unchecked even when it was glaring for everybody to see*[1043].

In 1966 Major Chukwuma Nzeogwu made a categorical statement to justify the coup which ushered in Military rule in Nigeria:

> *"My dear countrymen, no citizen should have anything to fear so long as that citizen is law abiding and if that citizen has religiously obeyed the nature of laws of the country and those set down in every heart and country conscience since October 1, 1960. Our enemies are the political profiteers, the swindlers, and the men in the high and low places that seek bribes and demand ten percent. Those that seek to keep the country divided permanently so that they can remain in office as Ministers or VIPs at least, the tribalists, the nepotism, those that make*

[1042] See Black's Law Dictionary Sixth Edition page 345.

[1043] Chief Obasanjo made the Statement on Saturday May 29th 1999 at Abuja, Nigeria and which was published in the radio, Television and newspapers.

> *country look big for nothing before the international circles, those that have corrupted our society and put the Nigerian political calendar back by their words and deeds.*[1044]

In 1984, Major General Mohammadu Buhari had to lament on the state of corruption in Nigeria in the following words:
"While corruption and indiscipline have been associated with our state of under-development, these twin evils in our body politic has attained unprecedented heights in the past four (4) years.[1045]

To fight against corruption government enacted the Corrupt Practices Decree No. 38 of 1975 and recently the Corrupt Practices and Other Related Offences Act 2000; the Economic and Financial Crimes Commission (EFCC). Corruption destroys development plans thereby denying citizens of their right to enjoy certain basic amenities. For instance, many contracts have failed in Nigeria while monies paid for them are not recovered. Monies belonging to Government is stolen and deposited in foreign banks by way of money laundering and illicit foreign currency transactions, thereby denying Nigerians from partaking in the God given resources.

Corruption depletes the economy of the nation and renders government incapable to provide the basic amenities needed by her people. Corruption has made very few Nigerians to be comfortable while majority are suffering. Nigerians should,

[1044] See Adewale, A: "WHY WE STRUCK" Evans Brothers Nigeria Published Ltd., Ibadan (1981) page 81.

[1045] See Sunday Punch, January 1st, 1984 page 2.

therefore join hands to ensure that if not totally eradicated corruption should be minimised for the good of all us. It is everybody's right to fight against corruption so that a virile social order will be enthroned in the body polity.

Conclusion

This topic, Impact of the Nigerian Legal System on the Administration of Social Justice is not only relevant to Nigeria but mostly all developing countries. A legal system that does not adequately recognise nor provide a robust social order to carter for the various segments of the society as well as individuals is doomed to fail. This is because merely providing for fundamental human rights in the Constitution without the corresponding application of the rules and regulations made pursuant thereto may not facilitate the implementation of social justice. We find solace to arrive at this conclusion due to the fact that human rights are in all intents and purposes the corner stone of social justice. Therefore, the various indices and elements that would conduce for a virile and potent society must be pursued. to wit:

Finally, we like to say that under this concluding aspect of the paper Government functionaries should adopt a political will that support good governance, government integrity and anti-corruption.

Recommendations

a) Observance of the Federal Character principles enshrined in the Constitution.
b) Observance of the fundamental human rights to the letter as a conner stone of social justice.

c) Respect for the rule of law as a twin child of social justice

d) Fighting corruption to ensure a healthy economy that would sufficiently make basic amenities to reach the people.

e) Enforcement of laws, orders of court and any constituted authority as basic factors that would support and or promote positive administration of social justice in our country.

f) Government should as a matter of priority real out model policies that are people - oriented and proactive that provides succor to the people.