



## **An Assessment of the Implementation of Socioeconomic Rights in Nigeria**

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**Abstract.** The socio-economic landscape of Nigeria is characterized by sharp contradictions, abundant natural resources, widespread poverty, and insufficient access to basic services. Despite constitutional guarantees, the country is struggling to ensure basic rights to education, healthcare, and a satisfactory environment. This study examines the implementation of socio-economic rights in Nigeria, highlighting the challenges that hinder their effective realization, and assessing the progress made to date. Key issues are critically assessed, including ineffective policy implementation, limited institutional capacity, and environmental degradation. In addition, the analysis examines the legal frameworks, political initiatives, and institutional mechanisms established to promote socio-economic rights. The research shows that, although some progress has been made, particularly in legislation and international cooperation, there are still significant gaps in translating policy into tangible results. This assessment highlights the need for a multifaceted approach to addressing the socio-economic issues facing Nigeria. Recommendations include strengthening the institutional framework, enhancing accountability, and supporting inclusive participation in policy development processes. Ultimately, this research aims to contribute to the ongoing discourse on promoting socio-economic justice and human dignity in Nigeria, highlighting the need for coordinated efforts among the government, civil society, and international partners.

**Keywords:** Socioeconomic Rights, Nigeria, Policy Implementation, Human Development, Sustainable Governance

### **1. Introduction**

Despite being Africa's biggest economy, Nigeria continues to grapple with poverty, many unemployed youths, many out of school children and poor infrastructural development in general. Nigeria is signatory to several international conventions aimed at safeguarding the human rights of its citizens. The 1999 Constitution also makes provisions for the promotion and protection of these rights but in spite of this, there remain a gap in the implementation of the socioeconomic rights in Nigeria. This gap raises serious concerns about the government's willingness and ability to uphold these fundamental rights. Against this backdrop, this study assesses the implementation of socioeconomic rights in Nigeria, looking at the legislative frameworks, policy initiatives, and institutional mechanisms in place. This study aims to contribute to the discourse about encouraging socioeconomic justice and human dignity in Nigeria by looking at the difficulties, progress, and future potential for advancement.

#### **1.1 The Nature and Scope of Socioeconomic Rights in Nigeria**

Socioeconomic rights in Nigeria had its origin in the United Nation's International Covenant on Economic, Social and Political Rights [ICESCR] 1966 ratified by Nigeria in 1993. These rights are enshrined in the constitution under chapter two of the constitution which is titled 'Fundamental Objectives and Directive Principles of State Policy'. The fundamental objectives are regarded as ideals towards which the nation is expected to strive whilst the Directive Principles lay down the policies which are expected to

be pursued in the efforts of the nation to realize the national ideals<sup>1</sup>.

The Constitution Drafting Committee [CDC] posited as the philosophical basis for the inclusion of the objectives and directives in the constitution the fact that governments in developing countries have tended to be preoccupied with power and its material prerequisites with scant regard for political ideas as to how society can be organized and ruled to the best advantage of all.<sup>2</sup>

As touching the ICESCR, as a prelude to the rights under the Covenant, the preamble to the Covenant provides a definite alienation and affirmation to the principles proclaimed in the Charter of the United Nations and Universal Declaration of Human Rights in words of the Covenant:

The states parties to the Covenant, considering that, in accordance with the principles proclaimed in the Charter of the United Nations, Recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world. Recognizing that, in accordance with the universal declaration of human rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights as well as his civil and political rights. Considering the obligation of states under the Charter of the United Nations to promote universal respect for and observance of human rights and freedom. Realizing that the individual, having duties to other individuals and to the community which he belongs is under a responsibility to strive for the promotion and observance of the rights recognized in the present covenant.

In Nigeria, all authorities – legislative, executive and judicial powers are under the duty and responsibility to conform to, observe, and apply the fundamental objectives and directive principles of state policy.<sup>3</sup> However, the court lacks the jurisdiction to entertain matters pertaining to chapter two of the constitution by virtue of section 6 [6] [c] which provides that:

The judicial powers vested in accordance with the provisions of this section shall not, except as otherwise provided by this Constitution, 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 two of this Constitution.

Following English tradition which assumes that socioeconomic rights by their nature do not lend themselves in judicial enforcement, the English lawyer considers socioeconomic rights as mere manifestoes, which are out of place in a constitution<sup>4</sup>. Nigeria inherited this English tradition. Hence, In the case of Archbishop Olubunmi Okogie [Trustees of Roman Catholic Schools] and Ors v Attorney-General of Lagos State<sup>5</sup> the court held that:

No court has jurisdiction to pronounce any decision as to whether any organ of government has acted or is acting, in conformity with the fundamental objectives and directive principles.

Interestingly, this tortuous position was not shared by two members of the Constitutional Drafting Committee who objected to the majority report in these terms:

The CDC draft has correspondingly robbed the masses of Nigerians of one major instrument for monitoring and controlling the conduct of those making public decisions on their behalf. We cannot grasp the value of a ‘fundamental objectives and directive principle of state policy’ which cannot be enforced in law even when it is clear to all and sundry that state policy decision-makers are constantly and consistently violating these objectives and principles<sup>6</sup>.

As if to pre-empt objections regarding the interface between socioeconomic rights and Chapter II, the Committee observed that socioeconomic rights are: rights which can only come into existence after the government has provided facilities for them. Thus, if there are facilities for education or medical services one can speak of the ‘right’ to such facilities. On the other hand, it will be ludicrous to refer to the ‘right’ to education or health where no facilities exist.<sup>7</sup>The 1979 Constitution was remarkable for being the first in the

<sup>1</sup> See Report of Constitution Drafting Committee, Vol.1 1976.

<sup>2</sup> Ibid.

<sup>3</sup> Section 13 of the Constitution of the Federal Republic of Nigeria 1999

<sup>4</sup> De Smith: *The New Commonwealth and its Constitutions* [London: Stephens & Sons Ltd, 1964] p. 166

<sup>5</sup>(1981) 1 N.C.L.R 218

<sup>6</sup>Osoba and Yusuf, *Minority Report and Draft Constitution for the Federal Republic of Nigeria*, 2019, p.15

<sup>7</sup>(FGN, 1976, p. XV).

country to entrench provisions known as “Fundamental Objectives and Directive Principles of State Policy”, Incorporated in Chapter II of the 1979 Constitution, the provisions are repeated in the current one, the Constitution of 1999, enumerating the classic socioeconomic rights such as right to work (section 17(3) (a),(b), right to health care (section 17(3)(d)), right to social security (section 17(3)(g), right to education (section 18), and right to environment, (section 20) and so on. However, these category of human rights were not properly designated as fundamental human rights but rather are considered as guidelines to shape state policies. They are dubbed ‘Directive Principles’ and deemed non-justiciable.<sup>8</sup> Section 17 of the constitution provides for the social objectives of the state, viz:

In promoting the social objectives of the nation, the State shall ensure promote equality of rights, obligations and opportunities before the law, the sanctity of the human person, governmental actions shall be humane, exploitation of human and natural resources shall be preserved while the independence, impartiality and integrity of the judiciary shall be secured and maintained. Accordingly, the State shall direct its policy towards ensuring that all citizens have opportunities to secure adequate means of livelihood and suitable employment, conditions of work are just and humane, health, safety and welfare of persons in employment are safeguarded, there are adequate medical and health facilities for all persons, equal pay for equal work and that children, young persons and the aged are protected while there shall be public assistance in deserving cases.

This means that social rights which are not justiciable may be enforced under chapter 4 of the Constitution. Furthermore, the National Assembly has enacted a number of laws to advance the social rights of the Nigerian people. They include the Labour Act, National Minimum Wage Act, Pension Reforms Act, Employees Compensation Act, National Health Insurance Act, National Health Act, Peoples Bank Act, National HIV/AIDS Agency Act and so on<sup>9</sup>. Apart from promoting science and technology

Government is obligated to eradicate illiteracy; and to this end, the Government shall as and when practicable provide(a) free, compulsory and universal primary education; (b) free secondary education; (c) free university education; and (d) free adult literacy programme<sup>10</sup>. The Child’s Rights Act and the Compulsory, Free Basic Education Act have imposed a duty on the Government to provide free and compulsory education for every child in the country. Section 20 of the constitution is to the effect that “the state shall protect and improve the environment, and safeguard the water, air and land, forest and wildlife of Nigeria. While Section 13 of the Constitution makes it a duty and responsibility of the judiciary, among other organs of government, to conform to and apply the provisions of Chapter II, Section 6(6)(c) of the same Constitution makes it clear that no court has jurisdiction to pronounce any decision as to whether any organ of government has acted or is acting in conformity with the Fundamental Objectives and Directive Principles of State Policy.

There are several exceptions to the non-justiciability of socioeconomic rights in Nigeria. One of such exceptions is as stated in the case of *Olafisoye v. Federal Republic of Nigeria*,<sup>11</sup> Niki Tobi [of blessed memory], said:

...the non-justiciability of section 6[6][c] of the constitution 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 court otherwise provides in another section which makes a section of Chapter justiciable, it will be so interpreted by the section, which make a section or sections of chapter two justiciable, it will be so interpreted by the court.

Again, an individual seeking to enforce his or her socioeconomic rights may also do so by relying on the provisions of the African charter<sup>12</sup> in the court of law. This position has been given judicial affirmation in the case of *Alhaji Sani Dododo v. Economic and Financial*

<sup>8</sup>Obiajulu Nnamuchi, Joy Ezeilo, Miriam Anozie, Nicholas Agbo and Maria Iloigwe, ‘Justiciability of Socioeconomic Rights in Nigeria and Its Critics: Does International Law Provide Any Guidance?’ (2022) 19 *The Age of Human Rights Journal*

, <<https://revistaselectronicas.ujae.es/index.php/TAHRJ/article/view/7561/7335>> accessed April 29 2025

<sup>9</sup>Ibe Stanley, ‘Beyond Justiciability: Realising the Promise of Socio-Economic Rights in Nigeria’ (2010) 10 *African Human Rights Law Journal* 31,

[https://www.ahrlj.up.ac.za/images/ahrlj/2007/ahrlj\\_vol7\\_no1\\_2007\\_stanley\\_ibe.pdf](https://www.ahrlj.up.ac.za/images/ahrlj/2007/ahrlj_vol7_no1_2007_stanley_ibe.pdf), accessed April 29 2024

<sup>10</sup> Section 18 1999 Constitution of the Federal Republic of Nigeria (as amended)

<sup>11</sup> [2005] 51 W.R.N 52

<sup>12</sup> **Article 15- right to work, Article 16- right to health, Article 17- right to education, Article 18- right to protection from discrimination, particularly**, Article 22 provides that "All peoples shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind. 2. States shall have the duty, individually or collectively, to ensure the exercise of the right to development.

Crimes commission and Ors,<sup>13</sup> the court of appeal stated that:

The African charter is now part of the laws of this country protecting the social economic rights of citizens. The African charter is preserved by the 1999 Constitution and must be always relied on to recognize political and socioeconomic rights.

In the case of General Sanni Abacha v. Chief Gani Fawehimi,<sup>14</sup> it was held that:

The African Charter on Human and People's Rights, having been passed into our municipal law, our domestic courts certainly have the jurisdiction to construe and apply the treaty. It follows then that anyone who felt that his rights as guaranteed or protected by the charter have been violated could well resort to its provisions in our domestic courts.

Lastly, in the Economic Community of West African States [ECOWAS] case of Socio-Economic Rights and Accountability Project v. Federal Republic<sup>15</sup> of Nigeria, the court held that:

It is trite law that this court is empowered to apply the provisions of the African Charter on Human and People's Rights and article 17 thereof guarantees the right to education. It is well established that the rights guaranteed by the African Charter on Human and People's Rights are justiciable before this court. Therefore, since the plaintiff's application was in pursuance of a right, guaranteed by the provisions of the African Charter, the contention of second defendant that the right to education is not justiciable as it falls within the directive principles of state policy cannot hold.

The African Charter having been ratified and domesticated by the National Assembly pursuant to the provisions of section 12[1] of the 1999 Constitution [as amended], it becomes law in Nigeria and must be enforced by our courts as such. Despite the fact that the Nigerian constitution considers that social and economic rights as non-justiciable, the African charter regards such rights as being justiciable.<sup>16</sup>

The courts are also not precluded from exercising jurisdiction with respect to certain provisions of chapter II of the constitution which have been enacted into law by the National Assembly. Item 60 (a) of the Second Schedule to the Constitution is another exception to the non-justiciability rule of Socio-economic rights in Nigeria. It provides that the National Assembly may make laws to promote and enforce the observance of the Fundamental Objectives and Directive Principles contained in this Constitution.

Laws which the legislature has made following these provisions include, but not limited to; the Price Control Act,<sup>17</sup> the People's Bank Act,<sup>18</sup> the Nigerian Education Bank Act<sup>19</sup> just to name a few. The major problem of socioeconomic right in Nigeria however is the lack of political will of leaders of the country to enforce socioeconomic rights of the people, largely due to greed and mismanagement of the resources of the nation. Only if the Nigerian Government will properly and adequately manage the resources of the country, there would be sufficient resources available to carry out the due enforcement and implementation of socioeconomic rights of all Nigerians.

## 1.2 Socioeconomic Rights and Development in Nigeria

The respect for Socio-economic rights in a nation such as Nigeria is an effective recipe for development. There can be no true development in a nation without the actual promotion and protection of human rights, particularly the Socio-Economic Rights of the people. Every nation must endeavor to carry out practical implementation of socio-economic rights in their respective jurisdictions. Particularly, the developmental goals of the government of Nigeria cannot be fully realized without the guaranteed enforcement of the socioeconomic rights of citizens. Ever since Nigeria attained independence in 1960, it has been challenged with so many irregularities and anomalies, and even to date she remains a third-world country, yet it is largely believed and posited that Nigeria is very much endowed with natural resources. There are only a few good roads, no stable or regular power supply, no adequate or quality health, and no social security and housing facilities. Nigeria has much poverty despite its abundant resources and being rated the sixth largest crude oil

<sup>13</sup>[2013] 1 NWLR [Pt. 1336] 468

<sup>14</sup> [2000] 6 NWLR [Pt. 660] 228

<sup>15</sup> [Unreported] Suit No. ECW/CCJ/APP/08/08

<sup>16</sup> Yinka Olomajobi, 'Human Rights and Civil Liberties in Nigeria: Discussions, Analyses and Explanation' (2016), Lagos : Princeton & Associates Publishing Co. Ltd., 2016.

p.1

<sup>17</sup>Cap P28, Laws of the Federation of Nigeria, 2004

<sup>18</sup> Cap P.7 Laws of the Federation of Nigeria, 2004

<sup>19</sup> Cap N104 Laws of the Federation of Nigeria, 2004

exporter.<sup>20</sup> Though the Nigerian constitution states that the Government's foremost objective should be Nigerians' security and well-being and to ensure an adequate and dignified quality of life<sup>21</sup>, the Nigerian Government has failed in its constitutional responsibility to provide security, safeguard lives, provide an adequate standard of living, and enable an environment for business and economic activity to thrive.<sup>22</sup> The level of a state's development can be determined by the extent to which its citizens enjoy human rights in all their ramifications. Peace, progress and stability are predicated at both national and international levels with respect to human rights.<sup>23</sup> It has long been understood that 'most development objectives generally overlap with economic, social, and cultural [ESC] rights'.<sup>24</sup>

Article 2(1) of the UN's International Covenant on Economic, Social and Cultural Rights (ICESCR) establishes a standard of gradual achievement (that is, 'progressive realization') of its enumerated rights, which will obviously track development. The greatest beneficiaries of both development and human rights activities flowing from the Covenant are in the same target groups (the poor, the socially-excluded, the vulnerable) and in the same subject areas (education, housing, food, water).<sup>25</sup> Furthermore, the Covenant can be understood as a framework intended to mandate that certain outcomes of economic processes (like development) should be realized in conformity with non-derogable standards of humanity.<sup>26</sup>

We will not enjoy development without security, we will not enjoy security without development, and we will not enjoy either without respect for human rights. Unless all these causes are advanced, none will succeed.<sup>27</sup>

Human rights add value to the agenda for development by drawing attention to the accountability to respect, protect, promote and fulfill all human rights of all people. It, in turn, contributes to the human rights-based approach to development. A human rights-based approach will further generally lead to better analyzed and more focused strategic interventions by providing the normative foundation for tackling fundamental development issues.<sup>28</sup> Human rights are considered an instrument for the advancement of socioeconomic goals and therefore of human Development. According to Umozurike, there is hardly any government today that does not, at least, profess human rights. The acid test of good government is the level of response to the human rights requirements of the citizens. The protection and promotion of human rights have become the fundamental purpose of government. The level of a state's development can be determined by the extent to which its citizens enjoy human rights in all their ramifications. Peace, progress and stability are predicated at both national and international levels with respect to human rights.<sup>29</sup> The actual measure of sustainable development is the well-being of the individual. 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 and facilities for reading, freely moving about, and mixing with fellow human beings.<sup>30</sup> In Nigeria, there exist little or no respect for the protection and promotion of socioeconomic rights. The general result of this state of affairs is that there is little or no national development, and boundless feelings of insecurity, inflation, crises, and insurgency in Nigeria. Over the years, successive democratic governments in Nigeria have continued to include in their political manifestoes the burning issues of respect for human rights and improve standard of living among Nigerians. Despite

<sup>20</sup> R. S. Dauda, *Poverty and economic growth in Nigeria: Issues and policies*. *Journal of Poverty*, (2017); Taylor & Francis, ISSN 1087-5549, ZDB-ID 1357832-7. - Vol. 21.2017, 1/3, p. 69

<sup>21</sup> Woleola J. Ekundayo, 'Good governance theory and the quest for good governance in Nigeria', *International Journal of Humanities and Social Science*, (2017) 7(5), 154–161.

<sup>22</sup> Adebayo, P., & Adepoju, A. Insecurity problems and socio-economic development in Nigeria: An historical reassessment, 1999-2017 Studies, (2018) 2(2), 80–89.

<sup>23</sup> U.O. Umozurike, *The African Charter on Human and People's Right*, (Kluwer Law International, The Netherlands, 1997) p. 7.

<sup>24</sup> Bantekas and L Oette, *International Human Rights Law and Practice* (Cambridge University Press 2013) 367.

<sup>25</sup> A Marx et al, 'Human Rights and Service Delivery: Review of Current Policies, Practices, and Challenges', *World Bank Legal Review* (2015) 6 39, 40.

<sup>26</sup> M Dowell-Jones, *Contextualising the International Covenant on Economic, Social and Cultural Rights: Assessing the Economic Deficit*, (Brill 2004) 2.

<sup>27</sup> Report of the UN Secretary-General, 'In larger Freedom: towards development, security and human rights for all', 2005, <https://digitallibrary.un.org/record/543857?v=pdf>, accessed April 5, 2026.

<sup>28</sup> UNDP, *A Human Rights-based Approach to Development Programming in UNDP – Adding the Missing Link*,

[https://www.undp.org/sites/g/files/zskgke326/files/publications/HR\\_Pub\\_Missinglink.pdf](https://www.undp.org/sites/g/files/zskgke326/files/publications/HR_Pub_Missinglink.pdf), accessed May 1 2026

<sup>29</sup> U.O. Umozurike, *Supra*

<sup>30</sup> See *Caroline v Union Territory of Delhi*. I.R. 1981 Sup. Ct. 746 (App. 5) cited in C.C. Nweze, *supra*, at p.16

regimes of campaign promises, poverty among Nigerians keeps widening while enforcement of fundamental rights appears to be on graphical retrogression.<sup>31</sup> Governments with sufficient resources may however lack the will to implement human rights institutions and policies if it does not see it as a priority.<sup>32</sup> The national parliament should protect and serve the people's interests, not enrich itself at their expense.<sup>33</sup> Financial resources have always been available for the government to utilize for the implementation of socioeconomic rights, and even quite recently, the World Bank has approved a total of \$2.25 billion loan for Nigeria to help stabilise its economy following reforms and scale up support for the poor.<sup>34</sup>

## 2. Social and Economic Underdevelopment in Nigeria: A Trajectory

Nigeria as a country started relatively well in the area of providing for good welfare structures. Nigeria's golden years ran from the early 1970s to the early 1980s. During this time, the schools in Nigeria were some of the best in Africa and compared favorably to the best schools in the world. Nigerian universities participated in international exchange student programmes where schools sent their students to study in Nigeria.<sup>35</sup> The 1970s and 1980s were also a period when doing business in Nigeria was attractive. Global companies worked to have a Nigerian presence. Companies like Lever Brothers, Coca-Cola, United African Company, UAC, and Leventis were some of the companies in Nigeria.<sup>36</sup> The Naira dominated the financial market. From the 1970s through the 1980s, the naira exchanged 90 Kobo for one United States dollar. The unemployment rate stayed between 4.3% and 6%.<sup>37</sup> On the home front, from the 1970s through the 1980s, things were also going well for Nigerians. The workers got paid on time; pensioners got what was owed to them by the government every month. Many Nigerian students went to study abroad on government scholarships and received stipends from their

government. University students received bursary awards while receiving quality education. Politicians and government officials were people with high-quality education backgrounds.<sup>38</sup> But during this period, the Nigerian government was composed of young and inexperienced military officers who had no idea of global economics. Instead of capitalizing on the opportunity to put Nigeria on a lasting growth trajectory, they squandered it on youthful exuberance.<sup>39</sup>

This was the case as at the time Yakubu Gowon made his most famous speech. He stated that money was not Nigeria's problem but how to spend it. He uttered those words at a time when the surging price of oil was multiplying federal income faster than sensible spending could catch up with it. (For some context, Nigeria's oil revenues more than quadrupled in the eight months between September 1973 and May 1974) Even though today's circumstances are very different, I think Gowon's words are as apt today as they were back then.<sup>40</sup>

The tide has turned for Nigeria, and for the past 40 years, Nigeria has continued a downward economic spiral. The effects on Nigerians are too numerous to list. For example, the unemployment rate in Nigeria is one of the highest in the world. Former Emir of Kano, Muhammadu Sanusi has said that Nigeria as a country has made no progress in the past 40 years. He stated that:

In 1980, Nigeria's GDP per capital on purchasing power parity basis was \$2,180. In 2014, it appreciated by 50 per cent to \$3,099. According to the World Bank, where were we in 2019? \$2,229. At this rate in the next two years in terms of purchasing power parity, the average income of a Nigerian would have gone back to what it was in 1980 under Shehu Shagari. That means, in 40 years, no progress, we made zero progress. 40 years wasted,<sup>41</sup>

<sup>31</sup>Igwe Onyebuchi Igwe, Matthew Enya Nwocha and Amaramiro A Steve, 'Enforcement of Fundamental Rights in Nigeria and the Unsolved Issue of Poverty among the Citizens: An Appraisal' (2019) 10(1) Beijing Law Review 154. <<https://www.scirp.org/journal/paperinformation?paperid=89952>> accessed May 1 2024

<sup>32</sup>Lanse Minkler and Shawna Sweeney, 'On the Indivisibility and Interdependence of Basic Rights Developing Countries' (2011) 33 HRQ 351.

<sup>33</sup>Ibid

<sup>34</sup>Damilola Aina, 'World Bank Approves \$2.25bn Loan for Nigeria' Punch Newspaper (14 June 2024) <<https://punchng.com/world-bank-approves-2-25bn-loan-for-nigeria/>> accessed 11 May 2026.

<sup>35</sup>Hamilton Odunze, 'Why Nigeria's Golden Years Were Unsustainable' Punch Newspaper (28 November 2023) <<https://www.vanguardngr.com/2023/11/why-nigerias-golden-years-were-unsustainable/>> accessed 11 May 2026.

<sup>36</sup>ibid

<sup>37</sup>ibid

<sup>38</sup>ibid

<sup>39</sup>ibid

<sup>40</sup>Tolu Ogunlesi, 'How to Spend It' The Cable (30 November 2015) <https://www.thecable.ng/how-to-spend-it> (thecable.ng in Bing) accessed 11 May 2026.

<sup>41</sup>Ibrahim Wuyo, 'In Nigeria, It's 40 Years of Waste, Zero Progress — Sanusi' Vanguard Newspaper (14 August 2021, Kaduna) <https://www.vanguardngr.com/2021/08/in->

The drop in the international price of oil in the early 1980s led to a fall in government revenues and “triggered an unprecedented crisis of immense dimensions in the economy”.<sup>42</sup>

This adversely affected the domestic economy, engendered and sustained a patronage system that developed around political office holders and underlined waste and corruption in government, particularly the Shehu Shagari civilian government (1979-1983). The Shagari-led Federal Government grossly mismanaged the economy through lack of financial discipline, corruption, patronage and embezzlement of funds by political officeholders at federal and state levels of government.<sup>43</sup> As a result, from an annual growth rate of 6-7 percent between 1975 and 1980, GDP fell by 8.5 percent in real terms between 1981 and 1983, while consumer prices increased by over 20 percent.<sup>44</sup>

The resultant effect, which lingered into the 1990s, was a drastic fall in the standard of living of most Nigerians, and an increase in the level of poverty and inflation rate in the country. The poverty headcount of 27.2 percent in 1980 increased to 46.3 percent by 1985,<sup>45</sup> and the inflation rate averaged 13.4 percent, 22.6 percent and 26 percent over the periods of 1980-1983, 1984-1985 and 1986-1992 respectively.<sup>46</sup> The poor socio-economic condition of the people in the 1980s worsened in the 1990s, as shown by a poverty rate of 65.6 percent in 1996.<sup>47</sup>

This was due to the economic policy of the Babangida government (1985-1993), which was predicated on a structural adjustment policy (SAP), and political highhandedness of the Abacha government (1993-1998). The structural adjustment policy of the Babangida government was predicated on reducing dependency on imports, currency devaluation and

withdrawal of consumer subsidies on petroleum products. However, the policy was compromised by wasteful spending, corruption and patronage that typified the government.

## 2.1 Misplacement of Priorities and Corruption in Nigeria

The economic policies of the government of the day have had its toll on Nigerians, and **at a time when the Nigerian masses are facing severe hardship from the impact of the fuel subsidy removal, the country’s Senate is justifying a move to purchase 360 sports utility vehicles (SUVs) for its members.**<sup>48</sup>

At a time when millions of Nigerians are bearing the brunt of the removal of fuel subsidy, at a time when 133 million Nigerians are multi-dimensionally poor, at a time when the country’s debt servicing cost has surpassed its revenue, purchasing luxurious SUVs should never be a priority.<sup>49</sup> The enhancement of the socioeconomic rights of the people is no longer the priority of government. The Federal Government has come under fire for its recent decision to subsidise the 2024 Hajj with N90 billion despite allocating only N50 billion for the student loan scheme in the 2024 budget. Education and legal experts have slammed the decision, noting that spending such a humongous amount of money to subsidise Hajj is a misplacement of priority.<sup>50</sup> **How does such humongous sum to be paid for a religious activity help the masses of Nigerians who are struggling with their survival? This act displays yet another instance of misplaced priority on the part of the Nigerian government.** Some other examples to buttress this point is the N500 million for the renovation of the State House Clinic, which became operational only in 2023 and is not meant for public use, and is said to be a world class infrastructure with every needed gadget installed.<sup>51</sup>

nigeria-its-40-years-of-waste-zero-progress-sanusi/ (vanguardngr.com in Bing) accessed 11 May 2026.

<sup>42</sup> Adebayo O. Olukoshi, *The Politics of Structural Adjustment in Nigeria*, London : J. Currey ; Ibadan ; Portsmouth, N.H. : Heinemann, (1993) p. 58

<sup>43</sup> Eghosa Emmanuel Osaghae, *Crippled Giant: Nigeria since Independence*, ( John Archers Publishers Limited, Ibadan, 2002) 1-342

<sup>44</sup> *ibid*

<sup>45</sup> (UNDP, 2009),

<sup>46</sup> Adedoyin Soyibo, *The Savings-Investment Process in Nigeria: An Empirical Study of the Supply Side* (African Economic Research Consortium, Research Paper No 11, 1994), <https://www.researchgate.net/publication/46452262>

[The savings-investment process in Nigeria An empirical study of the supply side](https://www.researchgate.net/publication/46452262), accessed May 10 2026

<sup>47</sup> (UNDP, 2009).

<sup>48</sup> Chinomso Momoh, '360 SUVs: Why Nigerian Senate Must Halt Purchase', October 23, 2023 <<https://developmentdiaries.com/360-suvs-why-nigerian-senate-must-halt-purchase/>> accessed May 13 2026

<sup>49</sup> *ibid*

<sup>50</sup> Imoleayo Oyedeyi, A. Olasupo, D. Musa, and N. Shaibu, 'FG under fire over N90bn Hajj subsidy', 19th May 2024 <<https://punchng.com/fg-under-fire-over-n90bn-hajj-subsidy/>> accessed August 23, 2025

<sup>51</sup> Mariam Ileyemi, 'Months to tenure expiration, FG to build new medical centre in Buhari’s hometown', *Premium Newspapers* (December 6, 2022), <https://www.premiumtimesng.com/health/569263->

Even so, there always seems to be justification for the president to travel overseas for a medical check-up. The rulers of the day give much attention to the maintenance of their luxurious lifestyles and more than to the maintenance of the social and economic welfare of the country, which should ordinarily be the focus of government according to the social contract theory.

Again, **Amidst the economic hardship facing Nigerians, President Bola Tinubu on Friday commissioned the N21 billion official residence of the vice president, Kashim Shettima.**<sup>52</sup> The National Assembly in November 2023, approved an additional N15 billion to construct the building, bringing the total cost of the project to N21 billion.<sup>53</sup>

The government has a poor record of management of humanitarian affairs in the country, even as the mandate of the ministry of humanitarian affairs and poverty alleviation is to develop humanitarian policies, provide effective coordination of national and international humanitarian interventions, ensure strategic disease mitigation, preparedness and response; and manage the formulation and implementation of fair focused social inclusion and protection programs in Nigeria.<sup>54</sup> The Humanitarian Affairs Department is saddled with the responsibility of coordination all humanitarian interventions for the Ministry. They ordinarily are meant to ensure holistic coordination of all sectors in collaboration with humanitarian actors in the field. However, the stench of corruption emanating from the Ministry of Humanitarian Affairs has become too overpowering to ignore two senior officials have been implicated in massive fraud totaling billions of naira meant for the country's poorest citizens. Betta Edu was accused of paying a whopping sum of N585.2 million into the account of one Bridget Oniyelu Mojisola said to be an accountant in charge of the federal government projects to disburse funds meant to ameliorate the condition of the poor people in Ogun, Lagos, Cross River and Akwa Ibom States. This was after she

allegedly spent about N3 billion on some questionable pro-poor projects that is yet to be duly accounted for.<sup>55</sup>

## 2.2 Which Comes First- Rights or Duties?

It has been opined in many quarters that duties, which are the responsibilities of the citizens to the government comes first as same is the cost for the ownership and enjoyment of rights claimed. Others have opined that for equality, respect for humanity and prosperity, rights should come first before duties. These controversies are unending.

A 'right', according to Hohfeld, is a legal interest that imposes a correlative duty. Hohfeld says If X has a right against Y to keep off the latter's land, the correlative [and equivalent] is that Y has an obligation toward X to stay off the place<sup>56</sup>

The people have a right to the government and the government has duties to the people. In order to build a liberal society, rights are firstly provided to the people by the rulers of the day. Duties are then imposed, which serves as a correlation to the rights provided.

**Under the African charter, rights come before duties. The rights provided under the African Charter are stated under Chapter one of the Charter, Articles 1-26. Particularly socioeconomic rights are provided articles 15- right to work, article 16- right to health, article 17- right to education etc. Duties under the charter are provided under Article 27-29.**

It would be observed that the duties provided under the African charter are to ensure the betterment of society. As touching the government, section 13 of the constitution<sup>57</sup> makes it the duty of all organs of government to enforce and enforce the observance of the rights provided under chapter two of the Constitution.

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months-to-tenure-expiration-fg-to-build-new-medical-centre-in-buharis-hometown.html, accessed August 11, 2025.

<sup>52</sup>Kazeem Badmus, 'Amidst Hardship, Tinubu Commissions N21bn VP's Official Residence' *Osun Defender* (8 June 2024) <https://osundefender.com/amidst-hardship-tinubu-commissions-n21bn-vps-official-residence/> (osundefender.com in Bing) accessed 11 May 2026.

<sup>53</sup> *ibid*

<sup>54</sup>United Nations Children's Fund (UNICEF), Humanitarian Action for Children: Nigeria Appeal 2026 (UNICEF, 2026) <<https://www.unicef.org/appeals/nigeria>> accessed 11 May 2026.

<sup>55</sup>Editorial Board, 'Scrap Humanitarian Ministry Now' *Leadership Newspaper* (c 2024)

<https://leadership.ng/scrap-humanitarian-ministry-now/> (leadership.ng in Bing) accessed 9 May 2026

<sup>56</sup>Lazarev N, 'Hohfeld's Analysis of Rights: An Essential Approach to a Conceptual & Practical Understanding of the Nature of Rights' (2005) 12(1/2) *Murdoch University Electronic Journal of Law* <<https://www5.austlii.edu.au/au/journals/MurdochUeJILaw/2005/9.html>>. accessed 11 May 2026

<sup>57</sup> Fundamental obligations of the Government as contained in the Nigeria 1999 Constitution (as amended)

Socioeconomic rights are positive rights which means that they require government involvement in their fulfillment and same has been confirmed under the African charter and the Nigerian constitution.<sup>58</sup> This means that the government has a duty to fulfill these rights; hence the people in effect have rights which the Government must protect and the people have duties to the State and Government. The respect for rights [particularly socioeconomic rights] and duties is necessary for the ordering of society and for the common good.

What happens when government neglects to fulfill its duty to enforce the rights of its people, for example the right to good roads and adequate health facilities, provide security? Are the people yet bound to carry out their duties such as the duty to pay taxes? The essence of government in such situation is defeated. Government exist in order to ensure the sustenance of lives and properties of the people whom they serve, where they fail in this duty, the refusal of citizens to fulfill their own duties become the order of the day, the essence of society is thus threatened. Hence it is more reasonable for rights to come first before duties. Socioeconomic rights must first be enforced before government seeks to impose duties on the citizens as both works together. For every right, there is a duty, and for every duty there is right.

Enforcing socioeconomic rights in Nigeria not merely as ideals of government but as the fundamental rights of the people will help avoid situations where a governor of a particular state in Nigeria who refused to pay government workers salaries for months and where there exist many out of school children could transfer state funds to the tune \$760,000 dollars [77 million naira] to pay in advance for his children's school fees.

### 2.3 The Necessity to Uphold International Human Rights Obligation

Professor Oppenheim has defined international law as: Law of Nations or International law is the name for the body of customary and conventional rules which are considered legally binding by civilized states in their intercourse with each other.<sup>59</sup>

International law governs states in their interrelatedness as opposed to municipal law that controls and regulates the state's internal structure; source of which includes but not limited to Treaties, Customary International law, General Principles.<sup>60</sup> States in their capacity come together and create for themselves obligation to foster international peace and try to eliminate conflict. These obligations are laws which the international community are expected to observe and follow strictly. Therefore, every nation that is a party to a treaty shall be obligated to observe and obey what is being laid down in the treaty and other international norms. Article 26 of Vienna Convention provides that every treaty in force is binding upon the parties and must be observed by them in good faith. Every treaty to which Nigeria is a signatory, whether at the regional or international level must first be ratified by the National Assembly before they become law in Nigeria and enforceable in our courts of law. This is provided in Section 12(1) of the Constitution<sup>61</sup>: No treaty between the Federation and any other country shall have the force of law to the extent to which any such treaty has been enacted into law by the National Assembly.

This position of the law was stated in the case of *Abacha v Fawehimi*<sup>62</sup> where the court held that the African charter is enforceable in Nigeria, like all other laws, having been ratified and domesticated by the National Assembly as the African Charter on Human and People's Rights<sup>63</sup> and because Parliament does not intend to breach an international obligation.

Two principal theories are known as monism and dualism. According to monism, international law and state law are concomitant aspect of the one system-- law is general; according to dualism, they represent two entirely distinct legal systems, international law having an intrinsically different character from that of state law. According to dualists, national judges never apply international law, only international law that has been translated into national law "International law as such can confer no right cognizable in the municipal courts. It is only insofar as the rules of international law are recognized as included in the rules of municipal law that they are allowed in municipal

<sup>58</sup> See for example article 1 of the African charter which provides to the effect that "the Member States of the Organization of African Unity parties to the present Charter shall recognize the rights, duties and freedoms enshrined in this Chapter and shall undertake to adopt legislative or other measures to give effect to them" and section 13 of the constitution provided supra

<sup>59</sup>L. Oppenheim. *International Law* (Long'sman Green & Co., 1905) 1-2.

<sup>60</sup>Article 36 of International Court of Justice Statute, 1945 cited in YinkaOlomjobi, *supra*

<sup>61</sup> Constitution of the Federal Republic of Nigeria [1999] as amended

<sup>62</sup>(2000) 6NWLR [Pt. 600] 228

<sup>63</sup> Ratification and Enforcement Act [1983]

courts to give rise to rights and obligations."<sup>64</sup> Nigeria as a country, practices the dualist system, as common law which was adopted by Nigeria on independence prefers the transformation of international Laws into municipal laws before they are enforceable in the country.

There exist at the international level, the Universal Declaration of Human Rights<sup>65</sup> and the ICCPR<sup>66</sup>, and the ICESCR<sup>67</sup>, and a host of other instruments to which Nigeria is a signatory. Unfortunately, Nigeria's international posture is at variance with its domestic constitutional scheme of human rights; a paradoxical and hypocritical stance that renders Nigeria vulnerable to charges of engagement in a bogus public relations stunt.<sup>68</sup>

The supremacy of international law on municipal sphere simply requires that if a state is in breach of its international obligations, for which it is internationally responsible, it cannot shelter itself behind domestic law.<sup>69</sup> Very often, municipal courts are confronted with situations calling for applications of rules of international law, sometimes at variance with municipal law, to the cases before them. It is in this context that the issue of relationship between two systems of law assumes importance.<sup>70</sup> Regional and International human rights obligations are, broadly speaking, created by treaties and international law. On respect of the former, these articles are consent-dependent, given that states are not in obligation to enter into treaties.

However, until the National Assembly ratifies a treaty, it will have no binding force in Nigeria, by virtue of section 12 of the constitution. As touching the enforcement of Socio-economic rights in Nigeria, the African Charter is the most potent regional instrument in enforcing socioeconomic rights. Nigeria is a signatory to African Charter on Human and People's Rights (ACHPR), and having domesticated it as ACHPR (Ratification and Enforcement) Act, Cap. A9, Laws of the Federation of Nigeria, 2004 is part of Nigeria's municipal legislation. It may be argued

therefore that social and economic rights are recognized in the country and Nigeria has obligation both negative and positive to ensure obedience to the legitimate requirement of the order of the legislation as may be enforced by the Courts. This is simply because the African Charter provides for socio-economic rights, and the Ratification Act has neither been inconsistent with the constitution, suspended nor repealed.

Nigeria should endeavour to enforce socioeconomic rights in order to fulfil its international obligations as a party to international human rights treaties; the principle of International Law relating thereto is *pacta sunt servanda* which means that agreements must be kept. Therefore, unless it can be shown that the socio-economic rights provisions in the African Charter are inconsistent with provisions of the Constitution, the state has obligations under international law to obey and enforce the provisions pursuant to the Ratification Act.<sup>71</sup> Also, the decision of the Supreme Court in *Abacha v Fawehinmi* shows that irrespective of the constitutional order in the country, whether military or democratic, the executive, legislative and judicial authorities in the country have obligations to obey and enforce provisions of the African Charter pursuant to the Ratification Act, unless the provisions have been expressly suspended or repealed by a later statute. *SERAP v Nigeria & Ors*<sup>72</sup> is another case on point having the same implication as does the earlier one. In this case, the Plaintiff, a civil society organization, in a form of public interest litigation instituted at the ECOWAS Community Court a suit against the President of the Federal Republic of Nigeria and Others. The complaint was based on violation of Socio-economic rights of the people in certain areas of the Niger Delta: "violation of the right to adequate standard of living, including the right to food, to work, to health, to water, to life and human dignity, to a clean and health environment; and to economic and social development." These rights are not of the category of first-generation rights that are guaranteed by chapter IV of the 1999 Constitution of the Federal Republic of Nigeria (as amended).<sup>73</sup> In the suit before the

<sup>64</sup>James Atkin, Baron Atkin, in MichealAkehurst(ed.), *Modern Introduction to International Law*, (Harper Collins, London) 45

<sup>65</sup>1948

<sup>66</sup> 1966

<sup>67</sup> 1966

<sup>68</sup>Dakas, CJ, Dakas, 'A Panoramic Survey of the Jurisprudence of India and Nigerian Courts on the Justiciability of Fundamental Objectives and Directive Principles of State Policy', in Azinge and Owosanoye (eds.) *Justiciability and Constitutionalism: An Economic Analysis of Law* (Lagos: NIALS,2010) 262 at 265.

<sup>69</sup>Pierre-Marie Dupuy, 'International Law and Domestic (Municipal) Law' in R Wolfrum (ed), Max Planck Encyclopedia of Public International Law (Oxford University Press, April 2011)

<<https://opil.ouplaw.com/display/10.1093/law:epil/9780199231690/law-9780199231690-e1056>> accessed 11 May 2026.

<sup>70</sup> Ibid

<sup>71</sup> Ibid

<sup>72</sup>Suit No: ECW/CCJ/APP/08/09

<sup>73</sup>Nigerian Constitution [1999] ss. 33-46

ECOWAS Court, the Plaintiff, SERAP, relied principally on, among others, the African Charter on Human and Peoples Rights, the ICESCR and the ICCPR. The reasons for this were obvious; Nigeria is a signatory to the International Instruments (but they have not been domesticated) as well as the Protocol on the Community Court of Justice. The defendants raised preliminary objections on many grounds, most essentially on jurisdiction of the court. The court however held that “it has jurisdiction to adjudicate on the case brought by the Plaintiff against the corporate defendants.” It is important to note that Nigeria is a member nation of the Economic Community of West Africa (ECOWAS) and as such the decision of the court has binding force in the Country. Article 15(4) of the ECOWAS Revised Treaty provides that judgment of the court shall be binding on member states, institutions of the commission, individuals and corporate bodies. Worthy of note is the articles of the charter that touches upon socioeconomic rights. Under Article 15 of the charter, every individual shall have the right to work under equitable and satisfactory conditions, and shall receive equal pay for equal work. Article 16 provides that every individual shall have the right to enjoy the best attainable state of physical and mental health. Article 17 of the same charter states that every individual shall have the right to education, [2] every individual may freely, take part in the cultural life of his community. The Act created obligation on all authorities and persons exercising legislative, executive or judicial powers in Nigeria to give full recognition to the provisions of the charter and apply same; thus, making provisions of the charter, including those relating to social and economic rights enforceable in Nigeria, not only by the courts established by or under the constitution, but also by the ECOWAS Community Court of Justice and the African Court of Human Rights. The internalization of the African Charter has filled the gap created by the non-justiciability of chapter II of the Nigerian Constitution. In *Abacha*<sup>74</sup>, the court found that the provisions of the Act are in a class of their own...., the Decrees of the Federal Military Government may over-ride other municipal laws, they cannot oust the jurisdiction of the Court whenever properly called upon to do so in relation to matters pertaining to human rights under the African Charter. They are protected by the International Law and the Federal Military Government is not legally permitted to legislate out of its obligations. In the case, *Ogundare, JSC*, delivering the judgment of the Court held that, most importantly among others: ...Cap 10 remained in full force and effect as it was never at any time altered by the Provisional Ruling

Council nor was there any need for its modification to bring it into conformity with the 1979 Constitution (as amended, suspended or modified) or any decree made after the commencement of Decree No. 107 of 1993, that is, after 17th November 1993. Cap. 10 was not inconsistent with any provision of the 1979 Constitution or any such decree.

The ICSECR to which Nigeria is a party is also of importance in this respect, unfortunately, however, it cannot be enforced in Nigeria, not having been ratified in conformity with the constitution. The instrument being in the category of multinational treaty cannot have the force of law in the Nigeria, unless and until, to the extent to which such treaty has been enacted into law by the National Assembly. However, it is submitted that a state must endeavor to uphold its international obligations in the spirit of the pact sunt servanda, which means that agreements must be met. Hence, socioeconomic rights should be enforced in a bid to fulfil our International human rights obligations.

#### **2.4 The Indivisibility of the First and Second Generation Rights**

Humanity witnessed the most terrible destruction of lives and property and the deprivations of the human rights of the individual during the second world war which was fought from 1939-1945. In a bid to ensure that there would no longer be the recurrence of such a destructive war, and to ensure that governments uphold and respect the human rights of their people, which would serve as a check on government excesses and promote the cause of its existence, the United Nations produced and adopted two human rights documents; the ICCPR and the ICESCR in 1966. The ICCPR contains rights which have been described as negative rights; meaning that they are rights which the government must refrain from infringing upon. They are immediately enforceable. As to ESCR, they are to be progressively realized, that means that governments should utilize their available resources to ensure the progressive enforcement of Socio-economic rights of their people. The two documents were initially designed as one document. Ideological and political differences - human rights versus national sovereignty, individual liberty versus communal needs - prevented a consensus. The dispute revolved around the question: whether economic, social, and cultural interests should be recognized as rights at par with the civil and political rights. The capitalist countries - the United States and her allies, were opposed to the uplifting of the economic, social and cultural rights to a position of equality with the civil and political rights.

<sup>74</sup>*Abacha v. Fawehimi*, n.115

On the hand, the communist countries - the former Soviet Union and her allies - held contrary position, and were supported by the newly independent states from the third world. (The concept, philosophy and historical development of human rights snapped). To resolve the stalemate, the drafters agreed to prepare two covenants, one dealing with civil and political rights, while the other one would deal with economic, social and cultural rights, this giving states the option to ratify either or both of them.<sup>75</sup> On 16, December, both covenants were adopted and they entered into force in 1976. Nigeria ratified both treaties on 29, July, 1993. The provisions of both covenants are reproduced in chapter two and four of the constitution 1999 (as amended). The civil and political rights provided in chapter four are titled 'fundamental human rights', some of which are the right to life, right to personal liberty etc, while the economic, social and cultural rights are provided in chapter two of the constitution, which is titled 'fundamental Objectives and Directive Principles of State Policy '. They are such rights as right to food, education, housing etc. The fundamental human rights chapter is justiciable in court and given preference and promotion by the government, while the provisions of the fundamental objectives and directives principles of state policy are made non justiciable at law by virtue of section 6 (6) (c) of the constitution. However, it has been opined in many quarters that; what good is the division between both covenants? What good is the right to life when one cannot access adequate health care? Or what good is the right to vote when one has no food to eat? Nelson Mandela (of blessed memory) was of the opinion that:

A simple vote, without food, shelter and health care is to use first generation rights as a smokescreen to obscure the deep underlying forces which dehumanize people. It is to create an appearance of equality and justice, while by implication socioeconomic inequality is entrenched. We do not want freedom without bread, nor do we want bread without freedom. We must

provide for all the fundamental rights and freedoms associated with a democratic society".<sup>76</sup>

First generation rights include civil and political rights such as free speech and conscience and freedom from torture and arbitrary detention. In other words, first generation human rights command governments to stand back from the citizen; they are "non-derogable", meaning that they establish bright line rules about which governments have no discretion.<sup>77</sup> Second generation rights are social, economic and cultural and include the rights to reasonable level of education, healthcare, and housing and minority language rights. Second generation rights require governments to take affirmative action; they are incremental and discretionary because they have a direct financial bearing upon the provision of government services.<sup>78</sup> Human rights are universal and inalienable; indivisible; interdependent and interrelated. They are universal because everyone is born with and possesses the same rights, regardless of where they live, their gender or race, or their religious, cultural or ethnic background. Inalienable because people's rights can never be taken away. Indivisible and interdependent because all rights – political, civil, social, cultural and economic are equal in importance and none can be fully enjoyed without the others.<sup>79</sup>

Indeed, it has been said that indivisibility of human rights is a concept at the very root of international human rights law<sup>80</sup> and that it is fundamental to the very establishment of the United Nations.<sup>81</sup>

The meaning and significance of the term 'indivisible' has evolved since it was first used in a human rights context in 1950. It was at this time that the Third Committee of the General Assembly of the United Nations was debating how to rework the Universal

<sup>75</sup> Ibid

<sup>76</sup> Nelson Mandela's opening address on the occasion of the ANC's Bill of Rights Conference, Mandela Bill of Rights for a democratic South Africa 12. cited in N. Gabru, 'SOME COMMENTS ON WATER RIGHTS IN SOUTH AFRICA', ISSN 1727-3781 SOME COMMENTS ON WATER RIGHTS IN SOUTH AFRICA 2005 VOLUME 8 No 1, p.4, <https://perjournal.co.za/article/view/2831/2746>, accessed August 20, 2024.

<sup>77</sup> Stanford Center on Democracy, Development and the Rule of Law, Second and Third Generation Rights in Africa (Freeman Spogli Institute for International Studies, Stanford University, 2012)

<[https://cddrl.fsi.stanford.edu/research/second\\_and\\_third\\_generation\\_rights\\_in\\_africa](https://cddrl.fsi.stanford.edu/research/second_and_third_generation_rights_in_africa)> accessed 11 May 2026

<sup>78</sup> Ibid

<sup>79</sup> World Health Organization, 'Human Rights' WHO Fact Sheet (1 December 2023) <<https://www.who.int/news-room/fact-sheets/detail/human-rights-and-health>> accessed 11 May 2026

<sup>80</sup> Victoria Hamlyn, 'The Indivisibility of Human Rights: Economic, Social and Cultural Rights and the European Convention on Human Rights', *Bracton Law Journal* (2008) 40, 13

<sup>81</sup> Asbjørn Eide, 'Interdependence and Indivisibility of Human Rights' in Yvonne Donders and Vladimir Volodin (eds), *Human Rights in Education, Science and Culture: Legal Developments and Challenges* (2007) 11

Declaration of Human Rights (UDHR) into a binding treaty form.<sup>82</sup>

The following fifth paragraph of the Vienna Declaration and Programme of Action, drafted at the Vienna World Conference on Human Rights in 1993, and adopted unanimously by 171 nations present<sup>83</sup> elucidates indivisibility from this perspective: All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis. While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms.<sup>84</sup> Indeed, ESCR are still afforded less emphasis in practice<sup>85</sup> with limited implementation such as in national constitutions, and enforcement.<sup>86</sup>

Ewelukwa considers that resistance to indivisibility is widespread, particularly due to the western tradition which is based on “a strong faith in full economic liberalism and a severely constrained role for the state in matters of welfare”.<sup>87</sup>

Although various countries have made the ICESCR to be unenforceable in their constitutions (Nigeria for example), the judiciary of some of these nations have taken up judicial activism in the enforcement of Socioeconomic rights in their various jurisdictions. This the exact case of India, where In J P Unnikrishnan v State of AP<sup>88</sup> the court observed that:

It is thus well established by the decisions of this Court that the provisions of Parts III and IV are supplementary and complementary to each other and

that fundamental rights are but means to achieve the goals indicated in Part IV of the Directive Principles.

The Court further expressed that “the directive principle now stand elevated to inalienable fundamental human rights.”<sup>89</sup>

Interestingly, the court completely transformed its approach towards the directives. It initiated a method of reading the directives to justify the legislative measures of the State. It started interpreting the various directives to provide meaningful content to welfare legislations like labour laws.<sup>90</sup> The interpretation of the constitution in India was to the effect of making socioeconomic rights justiciable in India. Lastly in Paschim Banga Khet Majdoor Samity v State of West Bengal<sup>91</sup>, the Supreme Court carved out the right to emergency medical care for accident victims as forming core component of the right to health, which in turn was recognized as forming an integral part of the right to health.

Socioeconomic rights and civil and political rights are interdependent and indivisible as has been so recognized by the United Nations, India and a host of other nations like South Africa. It is thus submitted that socioeconomic rights should be given priority in tandem with civil and political rights, as touching their enforcement which sadly is currently not the case.

## 2.5 Inequality of Resource Distribution

Social and economic inequality in Nigeria is not due to lack of resources, but to the ill-use, misallocation and misappropriation of such resources. At the root there is a culture of corruption and mismanagement with a political elite that is out of touch with the realities of the state of the nation. According to the Economic and Financial Crimes Commission (EFCC), between 1960 and 2005, about \$20 trillion was stolen

<sup>82</sup>Universal Declaration of Human Rights, GA Res 217 A (III) (adopted 10 December 1948) cited in *Indivisibility of Human Rights: A Theoretical Critique*, Dorothea Anthony.

<sup>83</sup>United Nations, World Conference on Human Rights, Vienna Declaration and Programme of Action (Vienna, 1993) <<https://www.ohchr.org/en/about-us/history/vienna-declaration>> accessed 11 May 2026.

<sup>84</sup>Vienna Declaration and Programme of Action: Report of the World Conference on Human Rights, Vienna, 14-25 June 1993, UN Doc A/CONF.157/23 (1993); 32 ILM 1661 (1993), I.5.

<sup>85</sup>Shedrack C. Agbakwa, 'Reclaiming Humanity: Economic, Social, and Cultural Rights as the Cornerstone of African Human Rights', *Yale Human Rights and Development Law Journal* (2002) 5 177, 178

<sup>86</sup>E. Nii Ashie Kotey, 'Some Fallacies About Rights: Of Indivisibility, Priorities and Justiciability' in *International*

*Commission of Jurists and African Development Bank* (ed), Report of a Regional Seminar on Economic, Social and Cultural Rights (1998) 27, 27.

<sup>87</sup>Uché U. Ewelukwa, 'Litigating the Rights of Street Children in Regional or International Fora: Trends, Options, Barriers and Breakthroughs', *Yale Human Rights and Development Law Journal* (2006) 9 85, 118.

<sup>88</sup>All India Reporter Supreme Court 2178 [199]

<sup>89</sup>Air India Statutory Corporation v United Labour Union, All India Reporter 1997 Supreme Court 645.

<sup>90</sup>Bijay Cotton Mills v State of Ajmer, All India Reporter 1955 Supreme Court 33; Crown Aluminum Works v The Workmen, All India Reporter 1958 Supreme Court 30; Express Newspaper Ltd v Union of India, All India Reporter 1958 Supreme Court 578. Cited in Socio-Economic Rights in India: Democracy Taking Roots By Uday Shankar and DivyaTyagi, Kharagpur / Raipur <sup>91</sup>(1996) 4 Supreme Court Cases 37.

from the treasury by public office holders. This amount is larger than the GDP United States in 2012 (about \$18 trillion).<sup>92</sup>

The Costs of government are also inflated by the excessive staff numbers, inflated salaries and benefits, arbitrary increase in the number of government agencies and committees, secret allowances and oversized and unjustifiable retirement packages for government officials. For example, The National Assembly and the 36 state assemblies of the federation as well as their agencies will spend about N724bn this year, an analysis of their 2024 budgets.<sup>93</sup>

The shares of government budget allocated to education, health and social protection are among the lowest in the region. For example, in 2012, 6.5% of the budget was allocated to education, 3.5% to health and 6.7% to social protection in 2010.<sup>94</sup> Agriculture is the main source of non-oil exports and employs almost half of the Nigerian population. However, unfavourable policies have prevented small, poor farmers from benefiting from agricultural growth.<sup>95</sup> For example, import quotas introduced to encourage investments in the rice value chain and meant for investors with rice-milling capacity were instead issued to cronies, who in turn sold them to larger traders and corporations. This pushed down the market price of rice, harming millers and rice farm owners whom the measure was originally meant to favour.<sup>96</sup> The oil sector provides 80% of the Nigerian government's revenue, but its performance is not efficient, and its contribution to the economy is not equitable. Further, Nigeria continues to spend huge amounts of scarce foreign exchange importing refined petroleum, because domestic capacity is insufficient to meet demand. Allegations are that government resources allocated for refineries maintenance are captured by the political elite.<sup>97</sup> Another consequence of the mismanagement of the nation's resources is the

high rate of unemployment, especially among the young. In 2016, between 12.1% and 21.5% of Nigeria's youth were without a job, and rates of underemployment are even higher. The inability of the economy to generate enough jobs results from the insufficient allocation of resources to the creation of new economic opportunities, combined with a difficult business environment, which disincentivises domestic investment and induces capital flight.<sup>98</sup> The situation of the unemployed reached desperate levels when on 15th of March 2014, 6.5 million people visited recruitment centres to apply for 4000 vacant positions in the Nigeria Immigration Service. At least 16 people died in the stampede that ensued during the process. These socioeconomic issues have also expanded inequalities among the wealthy and the poor.<sup>99</sup>

Government disregard for equal distribution and management of the wealth of the nation has resulted in backwardness in every facet of Nigeria's existence and stunted the economic and social growth of many Nigerians. It has created an unequal society which benefits the rich and sidelines the poor. In such societal situation, the enforcement of socioeconomic rights is stagnated and defeated as the focus of government is not on the welfare of the majority of the population but that of a select few who benefits from and enjoys the wealth of the nation at the expense of the majority of the people.

### 3. Conclusion

Socioeconomic rights are not fully justiciable in Nigeria as same has been rendered non-justiciable by virtue of the Constitution. Even though there are enough resources in Nigeria, as evidence suggests<sup>100</sup>, against the claims of the government that there is not enough resources, to meet aid the enforcement and implementation of socio-economic rights in the country. About forty years ago General Yakubu

<sup>92</sup>\$20trn stolen from Nigeria's treasury by leaders – EFCC- < <http://www.vanguardngr.com/2015/03/20trn-stolen-from-nigeriastreasury-by-leaders-efcc/>> accessed 23 May 2025

<sup>93</sup>Damilola Aina and Nathaniel Shaibu, 'National, State Assemblies to Spend N724bn in 2024' Punch Newspaper (13 May 2024) <<https://punchng.com/national-state-assemblies-to-spend-n724bn-in-2024/>> accessed 11 May 2026.

<sup>94</sup>Nigeria DHS, 2013 'inequality in Nigeria: exploring the drivers. Oxfam International May 2017

<sup>95</sup>'inequality in Nigeria: exploring the drivers. Oxfam International May 2017

<sup>96</sup> ibid

<sup>97</sup> ibid

<sup>98</sup> ibid

<sup>99</sup>Awofeso, O., and Irabor, P. A. 'Assessment of government response to socioeconomic impact of COVID-19 pandemic in Nigeria', *Journal of Social and Political Sciences*, (2020) 3(3).

<sup>100</sup>The World Bank has approved a total of \$2.25 billion loan for Nigeria to help stabilise its economy following reforms and scale up support for the poor<[World Bank approves Nigeria's \\$2.25 billion loan request | Reuters](https://www.reuters.com/world/africa/world-bank-approves-nigeria-s-2-25-billion-loan-request-2024-06-15/)>Date accessed June 15 2024

Gowon famously said that Nigeria's problem is not money, but how to spend it. Hence the lack of funds is not the major setback in enforcing socioeconomic rights but the political will to do so. The level of a nation's development is determined by their level of respect for the human rights of their citizens.

Nigeria at independence and up to the 1980s fared better in catering for the social and economic welfare of her citizens. Political mishaps, corruption, mismanagement of scarce resources and an inexperienced and unworthy leadership stunted the growth of the nation, and ever since then, Nigeria has failed to recover its position of development and human prosperity it once had. There are no strict mechanisms of ensuring the accountability of public officers, hence the high level of corruption and inefficiency at all levels of government. This state of affairs has contributed to the collapse of the economic and created multidimensional poverty in the country. The economic and social system of the country favors the few and sidelines the vast majority of the population. This worrisome state of affairs brings to the fore the necessity to look back into history and understand the negative consequences of such a situation where same has been initiated and sustained by government.