

## Executive implementation of directive principles of state policy in Nigeria: Lessons from Indian

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### Abstract

The Directive Principles of State Policy in the Constitution of India and the Fundamental Objectives and Directive Principles of State Policy in the Constitution of the Federal Republic of Nigeria 1999 are framed as a set of obligations upon the State, however, both also suffer the same faith as the two Constitutions render them judicially unenforceable. Notwithstanding the non justiciability of the said provisions in the Constitutions of the two countries, the same Constitutions also commanded the various organs of Government in the two countries to observe, apply and conform to the provisions on Directive Principles of State Policy. This article highlighted some sections of the said Constitutions and discussed to what extent, the Executive arm or organ of the two countries has implemented the relevant provisions of the constitutions on Directive Principles as directed or commanded. The paper concluded that Nigeria has much to learn from India being also the country where Nigeria borrowed this idea.

**Keywords:** constitution, directive principles, justiciability, organs of government

### Introduction

The Constitutions of India and Nigeria provided for Directive Principles of State Policy <sup>[1]</sup>. These Directive Principles of State Policy are a set of Constitutional Provisions which requires a state to carry out certain obligations in fulfillment of its mandate for the citizens of the country. Some of these obligations are understood as conferring rights on the individuals in the same way as guaranteeing human rights of individuals implies obligations of the States <sup>[2]</sup>. In other words, some of these Directive Principles substantially constitute certain rights and benefits conventionally referred to under Human Rights as Economic, Social and Cultural Rights.

The Constitutions of the two countries – India and Nigeria mandates the various organs of Government to implement and observe the provisions of the Directive Principle in their actions, policies and programmes <sup>[3]</sup>.

The relevant question to be addressed in this paper is “to what extent, have the Executive arm of the Government of the two countries implemented or obeyed the directives given in the Constitutions, and is there anything Nigeria can learn from India taking into consideration the wealth of experience acquired by India in the operation of this principle. It is a popular aphorism that the Courts put life into the dead woods of the statute therefore these mere words of the Constitutions would mean nothing if the Government does not apply or implement them.

### Salient provisions of chapter ii of the constitution of Nigeria

#### The Government and the People

Section 14 of the 1999 Constitution of Nigeria provides:

1. The Federal Republic of Nigeria shall be a state based on the principles of democracy and social justice.
2. It is hereby, accordingly, declared that:
  - a. Sovereignty belongs to the people of Nigeria from whom Government through this Constitution derives all its powers and authority;

- b. The security and welfare of the people shall be the primary purpose of Government; and
- c. The participation by the people in their Government shall be ensured in accordance with the provisions of this Constitution.
3. The composition of the Government of the Federation or any part of its agencies and the conduct of its affairs shall be carried out in such a manner as to reflect the Federal Character of Nigeria and the need to promote national unity, and also to command national loyalty, thereby ensuring that there shall be no predominance of persons from a few states or from a few ethnic or other Sectional groups in that Government or in any of its agencies.
4. The composition of the Government of a state, a local Government council, or any of the agencies of such Government or council, and the conduct of the affairs of the Government or council or such agencies shall be carried out in such manner as to recognize the diversity of the people within its area of authority and the need to promote a sense of belonging and loyalty among all the peoples of the federation.

#### Political Objectives

Section 15 of the 1999 Constitution provide as follows:

1. The motto of the Federal Republic of Nigeria shall be Unity and Faith, Peace and Progress.
2. Accordingly, National Integration shall be actively encouraged, whilst discrimination on grounds of place of origin, sex, religion, status, ethnic or linguistic association or ties shall be prohibited.
3. For the purpose of Promoting National Integration, it shall be the duty of the state to:
  - a. Provide adequate facilities for and encourage free mobility of people, goods and services throughout the federation;
  - b. Secure full residence rights for every citizen in all parts of the federation;
  - c. Encourage inter-marriage among persons from

- different places of origin, or of different religious ethnic, or linguistic association or ties; and
- d. Promote or encourage the formation of associations that cut across ethnic, linguistic, religious or other Sectional barriers.
4. The state shall foster a feeling of belonging and of involvement among the various peoples of the federation, to the end that loyalty to the nation shall override Sectional loyalties.
  5. The State shall abolish all corrupt practices and abuse of power.

### **Economic Objectives**

Section 16 of the 1999 Constitution provides as follows:

1. The state shall, within the context of the ideals and objectives for which provisions are made in this Constitution:
  - a. Harness the resources of the nation and promote national prosperity and an efficient, a dynamic and self-reliant economy;
  - b. Control the national economy in such manner as to secure the maximum welfare freedom and happiness of every citizen on the basis of social justice and equality of status and opportunity;
  - c. Without prejudice to its right to operate or participate in areas of the economy, other than the major sectors of the economy, manage and operate the major sector of the economy;
  - d. Without prejudice to the right of any person to participate in areas of the economy within the major sectors of the economy, protect the right of every citizen to engage in any economic activities outside the major sectors of the economy.
2. The State shall direct its policy towards ensuring:
  - a. The promotion of a planned and balanced economic development;
  - b. That material resources of the nation are harnessed and distributed as best as possible to serve the common good;
  - c. That the economic system is not operated in such a manner as to permit the concentration of wealth or means of production and exchange in the hands of few individuals or of a group; and
  - d. That suitable and adequate shelter, suitable and adequate food, reasonable national minimum living wage, old age care and pensions, and unemployment, sick benefits and welfare of the disabled are provided for all citizens.
3. A body shall be set up by an Act of the National Assembly which shall have power:
  - a. To review, from time to time, the ownership and control of business enterprises operating in Nigeria and make recommendations to the president on same; and
  - b. To administer any law for the regulations of the ownership and control of such enterprises.
4. For the purpose of sub-Section (1) of this Section:
  - a. The reference to the “major sector of the economy” shall be construed as a reference to such economic activities as may, from time to time, be declared by a resolution of each House of the National Assembly to be managed and operated exclusively by the Government of the federation; and until a resolution to the contrary is made by the National Assembly,

- economic activities being operated exclusively by the Government of the federation on the date immediately preceding the day when this Section comes into force, whether directly or through the agencies of a statutory or other corporation or company, shall be deemed to be major sectors of the economy;
- b. “Economic activities” include activities directly concerned with the production, distribution and exchange of wealth or of goods and services; and
  - c. “Participate” includes the rendering of services and supplying of goods.

### **Social Objectives**

This is basically provided for in Section 17 of the 1999 Constitution. The Section 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 actions shall be humane;
  - d. Exploitation of human or natural resources in any form whatsoever for reasons, other than the good of the community, shall be prevented; and
  - e. The independence, impartiality and integrity of courts of law, and easy accessibility thereto shall be secured and maintained.
3. The State shall direct its policy towards ensuring that:
  - a. All citizens, without discrimination on 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. The health, safety and welfare of all persons in employment are safe guarded and not endangered or abused;
  - 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;
  - f. Children, young persons and the aged are protected against any exploitation whatsoever and against moral and material neglect;
  - g. Provision is made for public assistance in deserving cases or other conditions of need and
  - h. The evolution and promotion of family life is encouraged.

### **Educational Objectives**

Section 18 provides for educational objectives.

1. Government shall direct its policy towards ensuring that there are equal and adequate educational opportunities at all levels.
2. Government shall promote science and technology
3. Government shall strive to eradicate illiteracy; and to this end Government shall as and when practicable provide:
  - a. Free, compulsory and universal primary education;
  - b. Free university education; and
  - c. Free adult literacy programme

## **Salient provisions of part IV of the constitution of India**

### **Promotion of Social Order**

Article 38 of the Constitution is one of the substantive articles of Part IV dealing with directive principles of state policy. The article provides that “the State shall (1) strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political shall inform all the institutions of national life;” (2) “in particular, strive to minimize the inequalities in income and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.”

### **Principles of Policy to be followed by the State**

Article 39 provides for certain principles of policy which the State must follow towards achieving a welfare State. The Article provides: the state shall in particular, direct its policy towards securing:

- a. That the citizens, men and women equally have the right to an adequate means of livelihood;
- b. That the ownership and control of the material resources of the community are so distributed as best to subserve the common good;
- c. That the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;
- d. That there is equal pay for equal work for both men and women;
- e. That the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;
- f. That children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

### **Free Legal Aid**

Article 39A, provides for equal justice and free Legal Aid. The Article Provides as follows: “The state shall secure that the operation of the legal system promotes justice, on the basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.”

### **Social Services**

Article 41 provides that the state shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in case of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

### **Promotion of just and humane condition of work**

Article 42 provides that the state shall make provision for securing just and humane conditions of work and for maternity relief.

### **Living wages for workers**

Article 43 provides that the state shall endeavour to secure, by suitable legislation or economic organization or in any

other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and in particular, the state shall endeavour to promote cottage industries on an individual or cooperative basis in rural areas.

### **Participation of workers in management of industry**

Article 43A provides that “the state shall take steps, by suitable legislation or in any other way, to secure the participation of workers in the management of undertakings, establishments or other organizations engaged in any industry.”

### **Provision of free and compulsory education**

The new provision of Article 45 is to the effect that “the state shall endeavour to provide early childhood care and education for all children until they complete the age of six years.”

### **Promotion of educational and economic interest of the schedule castes, schedule tribes and other weaker sections**

Article 46 provides that the state shall promote with special care the educational and economic interest of the weaker sections of the people, and in particular of the scheduled castes and the scheduled tribes, and shall protect them from social injustice and all forms of exploitation.

### **Raising Living Standard**

By article 47, the State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.

### **Implementation of directive principles of state policy by the executive arm in Nigeria**

Between 1979-1983 when the Fundamental Objectives and Directive Principles were first adopted into the Nigerian Constitution, the Civilian Government in Nigeria under the headship of Alhaji Shehu Shagari as part of his effort to implement the Directives as regard provision of shelter decided to build 1000 units of houses in each State of the Federation. This he started in most of the states before his Government was overthrown in a Military coup de tat led by General Mohammedu Buhari<sup>[4]</sup>.

This was to alleviate the housing needs of Nigerians especially the poor and common masses. Shagari's Government also introduced free and compulsory primary school. Some of the State Governments introduced free education from primary to university levels, while some introduced free and compulsory education in primary and secondary schools and removed tuition fees in tertiary institutions.

Under the 1999 Constitution and the present or current democracy which is barely 18 years the Federal Government has introduced what is called the Universal Basic Education Programme (UBE) which is established under the Compulsory, Free and Universal Basic Education Act 2004. By this programme, there is free and compulsory education from primary school to junior secondary school in the country<sup>[5]</sup>. This programme is introduced with a view to

implementing the provisions of Section 18 of the Constitution which deals with educational objectives under the Fundamental Objectives and Directive Principles of State Policy which provides inter alia that the Government shall direct its policy towards ensuring that there are equal and adequate educational opportunities at all levels; and that Government shall strive to eradicate illiteracy; and to this end Government shall as and when practicable provide free, compulsory and universal primary education; free university education etc <sup>[6]</sup>.

The Federal Government has also introduced the Almajiri Education Programme – designed to ensure that Nomadic Hausa/Fulanis are given opportunity to be educated. The Federal Government under President Mohammed Buhari has introduced the policy of school feeding, though the implementation of this policy has been very sluggish and highly politicized, it is a step in the right direction if effectively implemented. Some State Governments have also introduced free education up to senior secondary and university levels, while others have introduced free tuition for university education only and made primary and secondary education free and compulsory <sup>[7]</sup>.

The Federal Government has also made effort to implement the directive principles as contained in Section 15 especially Section 15(5) of the Constitution dealing with combating corruption. Section 15(5) provides that the state shall abolish all corrupt practices and abuse of power.

The Federal Government had pursuant to that objective and directive established Independent and Corrupt Practices Commission (ICPC) established under the provisions of the Corrupt Practices and Other Related Offences Act 2003 <sup>[8]</sup>.

The Corrupt Practices and Other Related Offences Act 2003 (hereinafter referred to as Anti-Corruption Act) created offences against public and private persons who are involved in corruption activities by asking for, receiving or obtaining property or benefit or agrees or attempts to receive or obtain any property or benefit for himself or on behalf of another person for anything done or omitted to be done or favour or disfavour shown or omitted to be shown to any person in the discharge of his official duties or in relation to any matter connected with the functions, affairs or business of a Government department etc. It is also an offence to give, confer or procure any property or benefit of any kind to or for a public officer; or promises or offers to give, confer, procure or attempt to procure any benefit or property for a public officer; or to offer bribe to a public officer; or to ask or receive on behalf of public officer any property or benefit; or to fraudulently acquire property; or fraudulently receive property; or to frustrate investigation by the commission or make false statement or return as a public officer in the management of public revenue etc <sup>[9]</sup>.

The Commission (i.e. ICPC) functions are broadly enumerated in Section 10 of the Act which include to receive and investigate any report of conspiracy to commit, or attempt to commit or the commission of offences as enumerated in the Act and make appropriate recommendation to the Attorney General of the Federation or State for possible prosecution. The commission can also examine practices, system and procedures of public bodies to determine whether such procedures, systems, practices aid or facilitate fraud or corruption and direct a review of such practices or procedures; instruct, advise and assist any officer, agency or parastatal on ways of eliminating or minimizing corruption by such agency etc.

The Federal Government also established the Economic and Financial Crimes Commission under the Economic and Financial Crimes Commission (Establishment) Act 2004 <sup>[10]</sup>. The functions and powers of the Commission are specified in Sections 6 and 7 of the Act which include:

- a. The enforcement and administration of the Act;
- b. Investigation of all financial crimes including Advance Fee Fraud, Money Laundering Counterfeiting, Illegal charges transfer etc.
- c. Coordination and enforcement of all economic and financial crimes laws and enforcement functions conferred on any other person or authority;
- d. Adopt measures to identify, trace, confiscate or seize proceeds derived from terrorist activities, economic and financial crimes related offences etc.
- e. Cause investigation to be conducted into properties of any person if it appears to the commission that the person's life style and extent of the properties are not justified by his source of income;
- f. Cause investigations to be conducted as to whether any person, corporate body or organization has committed an offence under the Act or other law relating to economic and financial crimes;
- g. The commission shall also be the coordinating agency for the enforcement of the provisions of:
  - i) The Money Laundering Act;
  - ii) Advance Fee Fraud and Other Related Offences Act;
  - iii) Failed Bank (Recovery of Debt and Financial Malpractices in Bank) Act;
  - iv) Banks and Other Financial Institutions Act;
  - v) Miscellaneous Offences Act etc.

The Constitution besides Section 15(5) has other elaborate and robust provisions aimed at transparency, accountability, good governance and combating corruption <sup>[11]</sup>. The Federal Government's effort in respect to the implementation of the Directive Principles under Section 15(5) has received lots of comments, commendations and condemnation.

#### **According to Paul Obo Idornigie**

“Transparency involves public access to knowledge of the policies and strategies of Government in the area of public account, public participation in Government policy making and implementation. Accordingly Section 85 of the Constitution provides for the audit of public accounts. An auditor general is appointed in accordance with the provisions of Section 86 of the Constitution and receives the accounts from the Accountant General, writes his report on the account and within ninety days of receipt submits them to the National Assembly for their consideration. In the exercise of his functions under the Constitution, the Auditor General shall not be subject to the direction or control of any other authority or person. Anybody found guilty of corrupt practices shall be referred to the Attorney General's Office and the police for prosecution. The Government has done fairly well in raising awareness in this regard but it is important that the Constitutional requirements are met. Although the legal environment for regular auditing of public account is in place, there is still a lot to do in terms of management of public finance in the country. The various Government departments/parastatals and the offices of the Accountant General and Auditor General should ensure that the audited accounts are sent to the National Assembly regularly. All the same as opposed to what obtained during

the military era the democratic dispensation allows for public participation in Government policy making and implementation”<sup>[12]</sup>.

Another legal commentator who seemed not satisfied with the effort of Government so far in the implementation of Directive Principles of State Policy with particular reference to the directive on Section 15(5) is Mike Ikhariale who had this to say: “The establishment of the Economic and Financial Crimes Commission (EFCC) was intended to combat the menace of corruption and dishonesty as a way of life but it does not seem the commission is achieving much of its objectives as far as fighting corruption in business and Government is concerned as we continue to witness the incidents of corruption at very astronomical rates. All these are some of the objective factors confirming a serious decline in the economic health of the country which in turn generated so much instability and economic hardship in the polity”<sup>[13]</sup>. The fundamental objectives and directive principle have also impacted on the Government in her policies and programmes in some other areas. Majority of Nigerians are poor and infact are living below poverty level. It is axiomatic to state that poverty in Nigeria has no geographical boundary. It is seen in all parts of Nigeria, in urban as well as rural areas. According to Animi Awah poverty is the opposite of financial empowerment<sup>[14]</sup>. I agree no less with her elucidation of what poverty is when she lamented thus:

Poverty in itself is not amenable to precise definition. It is multidimensional, characterized by lack of purchasing power, exposure to risk, malnutrition, high mortality rate, low life expectancy, insufficient access to social and economic services and few opportunities for income generation. The income dimension of poverty defines poverty as a situation of low income or low consumption. This has been used for constructing poverty lines. Accordingly, people are counted poor when their measured standard of living in terms of income consumption is below the poverty line. Minimum standards for food are based on nutritional requirement in terms of calories and protein consumption. Shelter is measured by number of persons per room and education is measured by the number of children attending school and the level of schooling. Going by these indices most Nigerians are poor. Households are usually over crowded, school enrolment is poor and nutritional requirements are hardly met.

Poverty also has a non-income dimension which usually intertwines with the income poverty. Thus the poor are unable to find a stable job, obtain an adequate level of education, obtain adequate income, own property or maintain healthy conditions. The poor generally cannot satisfy their basic needs-access to basic necessities of life such as food, clothing and decent shelter. They are also unable to meet basic social and economic obligations and they lack basic skills and self esteem. Very often the poor lack the capacity to escape from their situation by themselves. This causes the conditions of extreme poverty to persist and be transmitted from one generation to the next.

An obvious feature of the Nigerian society is that majority of its members are living in a state of poverty. Poverty in Nigeria has no geographical boundary. It is seen in all parts of the country, in urban as well as in rural areas.

However, in some zones the poverty situation threatens to worsen considerably such as in the Northern area bordering the Niger, which is arid, marginal to agriculture, environmentally degraded and densely populated. The

fishing communities living in the mangrove swamps and along the Atlantic Coast are among the poorest in Nigeria. “While the number of rural poor declined from 26.4 million in 1985 to 22.8 in 1992, in urban cities and towns it rose from 9.7 million to 11.9 million in the same period. In the same period total extreme poverty in Nigeria increased from 10.1 million people to 13.9 million people with a near three fold increase in the urban extreme poor from 1.5 million to 4.3 million. Moreover, the depth and severity of extreme poverty increased more than sevenfold in urban Nigeria compared with a twofold increase in rural areas. In Nigeria, the prevalence of poverty is duly recognized that, its incidence is taken for granted<sup>[15]</sup>.

It is obvious that poverty has no boundary, there is no tribal or religious boundary or even ethnic demarcations. It appears that it is against the backdrop of the above lamentation by Animi Awah a daughter and mother of Nigeria that may have engineered the Federal Government and perhaps other levels of Government in Nigeria to make effort in implementing the Directive Principles of state policy especially as it has to do with economic and social objectives under Sections 16 and 17 of the 1999 Constitution to ameliorate the scourge of poverty in Nigeria as could be seen in the under listed programmes of Government:

- a. Federal Government has set up the National Empowerment and Economic Development Strategy (otherwise called NEEDS). The aim of NEEDS include; poverty reduction, wealth creation, and employment generation which is to be achieved through
  - i) Empowering people and delivery of social services;
  - ii) Fostering private sector-led growth in an appropriate enabling environment; and
  - iii) Enhancing the efficiency and effectiveness of Government.
- b. Poverty Alleviation Programme (PAP). Just as the name implies it is a programme aimed at alleviating poverty.
- c. National Agency for Poverty Eradication Programme (NAPEP) which is established to monitor, coordinate and review all poverty eradication efforts in the country with a view to improving impact and enhancing equity and effectiveness on the use of resources. It has also been mandated to extend interventions in sectors requiring immediate and/or priority attention.
- d. Small and Medium Enterprises Development Agency of Nigeria (SMEDAN) which is established to assist small and medium scale enterprises and businesses.
- e. Agency for the attainment of Millennium Development Goals (MDGs). The Millennium Development Goal, (MDGs) are a set of objectives adopted by the United Nations General Assembly in 2000 with the following objectives:
  - i) Eradication of extreme poverty and hunger;
  - ii) Achievement of Universal Primary Education;
  - iii) Promotion of gender equality and empowerment of women;
  - iv) Reduction of child mortality;
  - v) Improvement of maternal health;
  - vi) Combating HIV/AIDs, Malaria and other diseases;
  - vii) Ensure environmental sustainability;
  - viii) Develop global partnership for development<sup>[16]</sup>.
- f. Micro-Finance Agencies – these are set up by Government to help the poor access finance for productive ventures and activities<sup>[17]</sup>.

It is a thing of great concern that these programmes have not

yielded much if any result in reducing poverty in the country. On the contrary the level of unemployment and poverty has continued to increase both in level and severity <sup>[18]</sup>.

The National Economic Empowerment and Development Strategy (NEEDS) which is anchored on private sector as the engine of growth for wealth creation, employment generation and poverty reduction has been seriously queried as a means of reducing poverty. According to E.E.O. Alemika, "in essence the Government is canvassing and implementing privatization, commercialization and withdrawal of Government from the economic sphere. The Constitutional provisions on economic objectives stipulated control, regulation and participation by the Government. How will Government control the economy for the maximum welfare when it relinquishes its interests in the strategic sector or transfers public wealth to private individuals. Is maximization of profit not the engine of the liberal capitalist economy? In a capitalist system, how is a Government going to control the distribution of wealth to secure the maximum welfare, freedom and happiness of every citizen on the basis of social justice and equality of status and opportunity? How is the Government going to promote planned and balanced economic development where it is only marginally involved, or when it has relinquished the role of economic management to the market forces? How is the Government to redistribute income and prevent concentration of wealth in the hands of a few when it has conceded to the ideology of wealth distribution by the market forces?" <sup>[19]</sup>

Some States Governments have introduced free medical programme for children and the elderly (i.e. Persons below 18 years and those above 60 years), free bus service for school children, and free meal (lunch) for primary school children <sup>[20]</sup>.

The Federal Government has established 13 new Universities and so many colleges that award Degrees and Higher Certificates <sup>[21]</sup>.

### **Implementation of directive principles of state policy by the executive arm in India**

The Indian Government through its executive arm has done so much in the implementation and application of the Directive Principles of State Policy as contained in Part IV of their Constitution, these can be seen from different angles as examined below:

1. The greatest progress in carrying out the Directives has taken place as regards the Directive in Art. 39(b) that the State should secure that the ownership and control of the material resources of the community are so distributed as best to subserve the common good. The distribution of largesse of the State is for the common good and to subserve the common good of as many persons as possible. In an agrarian country like India, the main item of material resources is no doubt agricultural. Since the time of the Permanent Settlement this important source of wealth was being largely appropriated by a group of hereditary proprietors and other intermediaries known variously in different parts of the country, such as, zamindars, jagirdars, inamdars, etc., while the actual tillers of the soil were being impoverished by the operation of various economic forces, apart from high rents and exploitation by the intermediaries, The Planning Commission of India, in its First Plan, therefore, recommended an abolition of these intermediaries so as to bring the tillers of the soil in direct relationship with the

State. This reform has, by this time, been carried out almost completely throughout India. Side by side with this, legislation has been undertaken in many of the States for the improvement of the condition of the cultivators as regards security of tenure, fair rents and the like. In order to prevent a concentration of land holdings even among the actual cultivators, legislation has been enacted in many of the States, fixing a ceiling, that is to say, a maximum area of land which may be held by an individual owner <sup>[22]</sup>.

2. In education the Government has made unprecedented effort to ensure that the populace especially children between the age 6 to 14 are educated. Education has been lifted fully to fundamental right as can be seen in the Constitutional amendments. Thus the 86<sup>th</sup> Constitutional Amendment Act was passed in 2002 to ensure free and compulsory education for children from age 6-14. By that also education has been made a fundamental right under the Constitution as per the provisions of Article 21A inserted by that Amendment. The said Article 21A provides as follows: "The state shall provide free and compulsory education to all children of the age of 6 to 14 in such a manner as the state may by law determine." This is in line with the decision of the apex court in the case of *Unni Krishnam V. State of Andhra Pradesh* <sup>[23]</sup>. Pursuant to the said Amendment the Parliament enacted the "Right of Children to Free and Compulsory Education Act 2009." This Act came into force from the 1<sup>st</sup> of April 2010, being also the date on which Article 21A of the Constitution also came into effect. To make the dates of the two enactments coterminous seems to indicate that there should be no time lag between the Constitutional commitment and its concretion by the parliament, implying thereby that the state should start acting without any more delay to fulfill its Constitutional commitment <sup>[24]</sup>. This action of the parliament did not only exhibit the seriousness attached to education but also shows its commitment to implement the Directive Principles as enunciated in Articles 41, 45 and 46 of the Constitution. Article 41 provides that the state shall within the limits of its economic capacity and development make effective provision for securing the right to work and education and to public assistance in certain cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want. Article 45 provides that the state shall endeavour to provide, within a period of ten years from the commencement of this Constitution for free and compulsory education for all children until they complete the age of fourteen years; while article 46 provides that the state shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular of the scheduled castes and the scheduled tribes and shall protect them from social injustice and all forms of exploitation. The provisions of Article 45 has been substituted with a new provision to the effect that "the state shall endeavour to provide early childhood care and education for all children until they complete the age of six years." Article 21A states categorically that the state shall provide free and compulsory education to all children of the age of 6 to 14 years in such manner as the state may, by law determine. It is important to remark that this amendment has vindicated the Supreme Court with respect to its opinion <sup>[25]</sup>. The Government has actually taken a bold step and as

- stated earlier it is really unprecedented. Only a few countries in the world today legally ensure free and compulsory education – Chile and Bangladesh are among them. Few countries in the world have such a national provision to ensure both free and child-centered and child friendly education to help all children develop their fullest potential. There are an estimated eight million children and young people between the age of six and 14 out of school. Without India, the world cannot reach the Millennium Development Goal of having every child complete primary education <sup>[26]</sup>.
3. Some States like Bihar and Madhya Pradesh have reserved 50% of their seats in Panchayat elections for women <sup>[27]</sup>.
  4. Almost all the other states have reserved 1/3 of their seats for women in the Panchayats at every level <sup>[28]</sup>.
  5. Minimum wages have been fixed pursuant to the Minimum Wages Act.
  6. There is equal pay for equal work for both men and women pursuant to the Equal Remuneration Act 1976.
  7. Various programmes have been launched to boost rural employment e.g. Mahatma Gandhi National Rural Employment Guarantee Act and Swarnajayanti Gram Swarozgar Yojana Act geared towards providing gainful employment for the rural poor. These programmes are implemented through the Panchayati Raj institutions. Government also recently plans to bring in various ministries like Agric, land resources, social forestry to create bigger assets under the rural job guarantee scheme <sup>[29]</sup>. Government has also planned to reduce the upper age limits and number of attempts for civil service employment to 29 years instead of 35 years for ST/SC, 28 years instead of 33 for OBC, 26 years instead of 30 years for unreserved category and 2 years for physically challenged of each of the group <sup>[30]</sup>.
  8. The Panchayati Raj has been set up in all the villages. This is a system of elected village council. It covers all the states and territories in India. It is recognized by the Constitution in Articles 243 to 243-ZG. The main purpose is democracy at the grass root, and power to the people. It was introduced into the Constitution by the Constitution Amendment Act of 1992. This is in accordance with Article 40 of the Constitution. It is stated that there are 2,27,698 Gram Intermediate Tiers and 474 Zila Panchayats in the country. Though the Constitution and functions of the panchayats vary according to the terms of the different State Acts, generally speaking, the panchayats, elected by the entire adult population in the villages, have been endowed with powers of civic administration such as medical relief, maintenance of village roads, streets, tanks and wells, provision of primary education, sanitation and the like. Besides civic functions, the panchayats also exercise judicial powers. Legal practitioners are excluded from these village tribunals. Though owing to lack of proper education, narrow-mindedness and sectional interests in the rural areas, the system of panchayat administration is still under controversy <sup>[31]</sup>.
  9. The year 1990-91 was declared as the year of social justice in memory of B.R. Ambedkar.
  10. The Government provides free textbooks to students belonging to scheduled castes and scheduled tribes pursuing medicine and engineering courses in tertiary institutions. The Government has also enacted the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act 1989 to protect the said group from discrimination <sup>[32]</sup>.
  11. The Consumer Protection Act 1986 was also passed to provide better protection of the consumers. The Act is also intended to provide speedy simple and inexpensive redressal to the consumers' grievances award relief and compensation where appropriate to the consumer.
  12. A number of welfare schemes have been implemented for the poor and backward classes and also for scheduled castes and tribes. Seats have been reserved for them in the Parliament and Vidhan Sabhas.
  13. National Commission for the welfare of women has been established, and other welfare programmes have been launched for the welfare of women all in the implementation of Directive Principles.
  14. Banks, Insurance Companies have been nationalized in the spirit of redistributing wealth pursuant to the objectives of the Directive Principles <sup>[33]</sup>.
  15. Cottage industries have been established and protected by tax concessions. For the promotion of cottage industries under Art. 43 which is a state subject, the central Government has established several boards to help the state Governments in the matter of Finance, marketing and the like. Examples are All India Khadi and Village Industries Board, All India Handicrafts Board, All India Handloom Boards Small Scale Industries Board <sup>[34]</sup>.
  16. Green Revolution has been introduced leading to increase in agricultural activities and food production.
  17. There is subsidized public distribution schemes introduced to help the poor people.
  18. Privy purses of ex-princes have been abolished <sup>[35]</sup>.
  19. In pursuance to the Environment objectives, a number of programmes to safeguard forest and wide life e.g. save the Tiger Project Rhino, elephant etc.
  20. India's foreign policy has been robust and in support of world peace and security. India has in the past condemned all acts of aggression and has also supported the United Nations in peace keeping. By 2004 the Indian army had participated in 37UN peace keeping operation <sup>[36]</sup>.
  21. Recently the present administration of Modi also introduced a policy of operation keep India clean pursuant to Art. 48A, 47 & 51A. Government is building toilets for people to boost public health on the "Shachh Bharati Mission" Programme <sup>[37]</sup>.
  22. In order to redistribute wealth and reduce inequality in the economy, the right to property has been removed from the chapter on fundamental human rights.
  23. Ceiling has also been placed on land and property holding to reduce inequality.
  24. In the area of health, Government has made efforts also. Healthcare is one of the seven thrust areas under the National Common Minimum Programme (NCMP) and improvement in health continues to be an important part in overall strategy for socio-economic development over the planning period. The National Rural Health Mission (NRHM) is the key plank for giving effect to the mandate of the NCMP. The NRHM also provides an overreaching umbrella to the existing programmes of Health & Family Welfare including RCH-II, Vector Borne Disease Control Programme, T.B., Leprosy, NPC B and the Integrated Disease Surveillance Project. It also addresses the issue of health in the context of a sector wide approach encompassing sanitation and hygiene, nutrition and safe

- drinking water as basic determinants of good health and also advocates greater convergence with related social sector Departments. The core strategies of the Mission include identification and selection of the Accredited Social Health Activist (ASHA), decentralized planning, strengthening of existing infrastructure like sub-centers, PHCs and CHCs, adoption of a sector wide approach, flexible financing, community participation, manpower development and partnership with non-Government stakeholders. Maternal and child health will be given basic thrust on the programme front. The Pradhan Mantri Swasthya Suraksha Yojna is a major initiative for developing tertiary healthcare in the country, particularly to enable the availability of such facilities on a regional basis. It is also expected to reduce imbalance in human resources development by providing health care services through establishment of medical colleges and an improved delivery of services. Under PMSSY, 6 AIIMS like institutions are to be set up and 13 medical colleges upgraded. To tackle the menace of other communicable and non-communicable diseases, the Ministry of Health and Family Welfare continues to implement National Health Programmes throughout the country for Blindness, AIDS, Cancer, Mental Disorders etc <sup>[38]</sup>.
25. For raising the standard of living under Art. 47, particularly of the rural population, the Government of India launched its Community Development Project in 1952. Later they launched the Integrated Rural Development Programme (IRDP) (1978-79), National Rural Employment Programme (NREP), Rural Landless Employment Guarantee Programme (RLEGP), Drought Prone Areas Programme (DPAP), Desert Development Programme (DDP) and some other schemes were launched <sup>[39]</sup>.
26. Though legislation relating to prohibition of intoxicating drinks and drugs under Art. 47 had taken place in some of the Provinces long before the Constitution came into being, not much of effective work had been done until, in pursuance of the Directive in the Constitution, the Planning Commission took up the matter and drew up a comprehensive scheme through its Prohibition Enquiry Committee, since then prohibition has been introduced in several States in whole or in part <sup>[40]</sup>.
27. As to the separation of the executive from the judiciary under Art. 50, the slow progress and diverse methods in the various States has been replaced by a uniform system by Union legislation, in the shape of the Criminal Procedure Code, 1973, which has placed the function of judicial trial in the hands of the 'Judicial Magistrates', who are members of the judiciary and are under the complete control of the High Court <sup>[41]</sup>.
28. The executive in the implementation of Directive Principles of State Policy have:
- a. Introduced the National Housing Policy which was formulated in 1998 was done as a commitment of Government to apply the Directive Principles. From the economics point of view shelter is one of the three basic needs of man. The essence of that policy is to create surplus in housing stock, and facilitate the construction of two million houses every year <sup>[42]</sup>.
  - b. There is also the National Social Assistance Programme which took effect in 1995 which comprises:
    - i) National Old Pension Scheme
    - ii) National Maternity Benefit Scheme,
    - iii) National Benefit Scheme, all these seek to provide, social security in old age, during maternity and in the event of the death of a primary breadwinner in the family <sup>[43]</sup>.
  - c. In Science and Technology, notable institutional structures have been established to support research in certain area, prominent among them are:
    - i) The Technology Development Board which provides financial assistance to industrial concerns and other agencies for engaging in the development and commercial application of indigenous or imported technology for wider domestic use <sup>[44]</sup>.
    - ii) The National Research Development Corporation established primarily to transfer technology from research and development laboratories to industries. The operations cover the entire spectrum of industrial technology ranging from chemical to metallurgy, mechanical and electrical engineering; electronic, biotechnology etc.
    - iii) The Council of Scientific and Industrial Research etc <sup>[45]</sup>.
  - a. Public Distribution System; this is designed to assist both consumers and producers of food grains by linking procurement to support prices, and ensuring distribution at affordable prices throughout the country. Maryam Uwais describes this as the largest distribution system in the world <sup>[46]</sup>.
  - b. The National Food Security Bill was passed into law by parliament in 2013 and adopted the same year after being assented to by the President <sup>[47]</sup>.

On the implementation of Directive Principles by the Government in India, a legal commentator concluded thus: "Although implementation has been far from satisfactory the state has shown genuine will to implement the Directive Principles. In electoral politics, no Government may with impunity, ignore welfare-oriented policies with regard to public health education, economic equality, position of women, children and backward classes. In totality the Directive Principles operate well in the planning process, but still have not been fully translated into action. It cannot be denied that various Governments have put in some efforts in this direction. The directive in Article 39(b) has influenced legislation to fix land ceilings, remove intermediaries such as Zamindars, abolish hereditary proprietors, etc. and made the tillers of the soil real owners of the land. The enactment of the Hindu Marriage Act 1955 and the Hindu Succession Act 1956 have been important steps to implement the directives of the Uniform Civil Code."<sup>[48]</sup>

The Constitution has been amended successively to modify those fundamental rights by reason of whose existence the state was experiencing difficulty in effecting agrarian, economic and social reforms which are envisaged by the Directive Principles <sup>[49]</sup>.

### Concluding Remarks

From the foregoing, it is obvious that the Government of Indian is far ahead in the implementation of Directive Principles of State Policy. This may however be explained out because India has embraced democracy since its independence in 1947 and have been running a Constitutional Government. The Nigerian Democracy is still in its puberty

age as well as the constitution, because of incessant coups and counter coups. One may not expect the same level of implementation of the Directive Principles as it is in India. It is obvious that Nigeria has a lot to learn from India in terms of constitutional and democratic principles including the application of Directive Principles of State Policy. Nigeria borrowed this principle from India it will not amount to kowtowing to emulate them in the way and manner their Government is implementing the Principles. It is of common knowledge that any discussion on the application of Directive Principles of State Policy without reference to India will be defective or incomplete. Our Government should minimize this apathy exhibited in governance especially as it concerns the implementation of the Directive Principles. They must stop pleading poverty or blaming their predecessors as a reason for their failure, ineptitude, unseriousness and apathy in the implementation of the provisions of Chapter II. India has carved a niche for itself and has set good example in this aspect of constitutional principle which Nigeria must emulate. There is no gainsaying that the Directive Principles have direct impact on the citizens more than any other provisions of the constitution, No wonder Justice Bhagwati<sup>[50]</sup> of the Indian Supreme Court concluded that ‘the dynamic provisions of the Directive Principles of State Policy fertilize the static provisions of the fundamental rights,’ and that the only way fundamental right can be made meaningful to the poor, downtrodden and economically backward people is by implementing the Directive Principles.

#### References

1. See Part IV of the Constitution of India captioned “Directive Principles of State Policy” (DPSP), and Chapter II of the Constitution of the Federal Republic of Nigeria 1999 as amended, captioned “Fundamental Objective and Directive Principles of State Policy” (FODPSP). In this work it will simply be called Directive Principles
2. Abdi JUBril Ali & Kwadwo Appiagyei-Atua; *Justiciability of Directive Principles of State Policy in Africa. The Experiences of Ethiopia and Ghana.* IEJHRs 1 – 40 (2013).
3. Article 37 of the Constitution of India which provides “The provisions contained in this part shall not be enforceable by any Court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws” while Section 13 of the Nigerian Constitution provides “It shall be the duty and responsibility of all organs of Government, and of all authorities and persons exercising legislative, executive or judicial powers to conform to observe and apply the provisions of the Chapter of this Constitution.”
4. Note that as at 1979 Nigeria had about 19 States but at present Nigeria has 36 states excluding the Federal Capital Territory Abuja.
5. The Compulsory, Free and Universal Basic Education Act 2004 – is an Act of the National Assembly in Nigeria.
6. The Constitution of Nigeria 1999 s. 18(2)(3)(a)(b).
7. See Rivers State, Ogun State, Imo State, Ondo State, Lagos State etc.
8. Note that this Act repealed the Corrupt Practices and Other Related Offences Act of 2000 under which the said commission was first established; s. 55 of the 2003 Act repealed the 2000 Act and reestablished the commission in s. 3.
9. For details of the offences created by the Anti-Corruption Act ss. 12 to 31 of the Act.
10. This Act shall hereinafter be called EFCC Act. This Commission was first established by the Provisions of Economic and Financial Crimes Commission (Establishment) Act, 2002 Act (No. 5, 2002) which is now repealed by s. 44 of the EFCC Act 2004 (Act No. 1 of 2004).
11. Sections 85, 86, 88(1), 125, 128(1), 153(1)(a), 172, 209 of the Constitution. All these Sections are aimed at bringing integrity, transparency and accountability in governance and combating corruption in support of Section 15(5).
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15. Animi Awah, Id at 89-91.
16. Available at <https://en.m.wikipedia.org/wiki/mille...> Last visited 23/6/15 see also Dr. Nathaniel A. Inegbedion “Budget Monitoring as a counter-weight to the non-justiciability clause in Advancing Economic, Social and Cultural Rights” 6(1) PortHarcourt Law Journal 155-168 (2014).
17. Animi Awah, “Natural Resources, Financial Empowerment and Justiciability Question” in E. Azinge and B. Owasanoye (eds.) *Justiciability and Constitutionalism: An Economic Analysis of Law*, 95-96 (NIALS, Lagos, Nigeria, 2010).
18. Animi Awah, Id at 96.
19. EEO Alemika, “Socio-economic consequences of non-justiciability of the Nigerian Constitution’s Fundamental Objectives and Directive Principles of State Policy” in E. Azinge and B. Owasanoye (eds.) *Justiciability and Constitutionalism: An Economic Analysis of Law*, 256-257 (NIALS Lagos, Nigeria, 2010). Also see EEO Alemika: “Fundamental Objectives and Directive Principles of State Policy within the Framework of a Liberal Economy” in I.A. Ayua, D.A. Guobadia *et al.* (eds.) *Nigeria: Issues in the 1999 Constitution*, p. 198-220 (NIALS, Lagos, 2000).
20. Rivers, Akwa Ibom, Imo States, etc.
21. See Bayelsa, Ekiti, Taraba States etc. where new Universities have been established by the Federal Government.
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