



Nigerian Government and the Implementation of the Fundamental Objectives and Directive Principles of State Policy

Morka. B. C. & Agiri Ese Esq.

**School of General Studies
Delta State Polytechnic, Ozoro, Nigeria**

ABSTRACT

In a bid to providing socio- economic justice to Nigerian citizens the government of the Federal Republic of Nigeria included the Fundamental Objectives and Directive Principles of State Policy in the 1999 constitution as amended to cater for the rights that were not listed in the Fundamental Rights. This was a wakeup call to use the constitution to impose upon the state the duty to provide for her citizenry the political, social, educational, environmental and cultural rights embodied in the international law. The paper seeks to explore an over – view of the Fundamental Objectives and Directive Principles of State Policy as contained in the 1999 constitution of the Federal Republic of Nigeria as amended vis a vis an appraisal of Government observance and implementation of this provision as provided for in the constitution. The paper recommends among other things that Government should be made duty bound to implement this provision by incorporating it into the Fundamental Rights just as South Africa did in their 1996 constitution and be made justiceable.

Keywords: Fundamental objectives, directive principle, constitution, fundamental rights, international law

INTRODUCTION

The provisions on Fundamental Objectives and Directive Principles of State Policy are some of the greatest innovations in the history of constitution making in Nigeria. The rationale for this innovation was that government in the developing world/ countries had tended to be pre-occupied with power and its material pre-requisites with scant regard for political ideas as to how society could be organized and ruled to the best advantage of all (Ogun, 2004).

According to Apologun (2003), Fundamental Objectives and Directive Principles of State policy can be regarded as goals and aspirations a country aims at inculcating in its citizens and achieving in all facets of its national life and in its relationship with the outside world. Agiri (2012) opines that, the chapter is predicated upon obligations, responsibilities and duties of the government to the citizens on one hand and the duties of the citizens to the government of the Federal Republic of Nigeria on the other hand. The language used “SHALL” in this chapter indicates and suggests that the provisions in chapter two of the constitution of the Federal Republic of Nigeria, 1999 are mandatory to be carried out. The provisions in this chapter are very beautiful and constructive ideas but they are non-justiceable.

Although, these Fundamental Objectives and Directive Principles of State Policy are non-justiceable it is fundamental in the governance of the country because for making any laws and policies the government is to be guided by these fundamental objectives and directive principles. The term non-justiceable means not enforceable by any court of law. Unlike the Fundamental Rights, a person cannot go to a court of law seek redress for non-implementation of fundamental objective and directive principles.

It is evident that these provisions are non-justiceable but the government cannot afford to ignore them. Despite the fact that there is no legal sanction behind these provisions, the ultimate sanction lies with the people. The people know that these provisions are for their welfare hence, they are bound to pressurize the government to implement them. Such public pressure on the government is exercised fundamentally through periodic elections. It becomes abundantly clear that the inclusion of this provision in the constitution of the Federal Republic of Nigeria is of great imperative to the Nigerian polity whose cardinal characteristics are heterogeneous society, increasing gap between the rich and the poor, the growing cleave rage between the social groups and unguided corruption etc, all of which combine to confuse and contradict the nation.

From the above, there is no gainsaying the fact that these provisions provides the best criteria for a critical assessment of the performance of the government in power, as it becomes easy for the people to determine whether the government were able to realize these objectives as provided for in the constitution.

AN OVER-VIEW OF THE FUNDAMENTAL OBJECTIVES AND DIRECTIVE PRINCIPLES OF STATE POLICY

According to chapter 2 of the 1999 Constitution of the Federal Republic of Nigeria as amended, the fundament objectives and directive principles of state policy are thus:

- **Fundamental Obligations Of The Government**

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 this chapter of this constitution.

- **The Government And The People**

1. The Federal Republic of Nigeria shall be a State based on the principle of democracy and social justice.
2. It is hereby, according, 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 provision of this Constitution.
3. The composition of the Government of the Federation or any 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 State 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 people of the Federation.

- **Political Objectives**

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 the 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 and other sectional barriers.
4. The State shall foster a feeling of belonging and of involvement among the various people 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**

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 sectors of the economy;
 - d. without prejudice to the right of any person to participate in areas of the economy within the major sector 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 the 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 the means of production and exchange in the hands of few individuals or 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 regulation of the ownership and control of such enterprises.
4. For the purposes of subsection (1) of this section-
 - a. the reference to the “major sectors 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” includes 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**

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 opportunity before the law;
 - b. the sanctity of the human person 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 safeguarded 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 age 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**

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 secondary education;
 - c. free university education; and
 - d. free adult literacy programme.

- **Foreign Policy Objectives**

The foreign policy objectives shall be –

- a. promotion and protection of the national interest;
- b. promotion of African integration and support for African unity;
- c. promotion of international co-operation for the consolidation of universal peace and mutual respect among all nations and elimination of discrimination in all its manifestations;
- d. respect for international law and treaty obligations as well as the seeking of settlement of international disputes by negotiation, mediation, conciliation, arbitration and adjudication; and
- e. promotion of just world economic order.

- **Environmental Objectives**

The State shall protect and improve the environment and safeguard the water, air and land, forest and wild life of Nigeria.

Directive on Nigeria Cultures

The State shall-

- a. protect, preserve and promote the Nigerian culture which enhance human dignity and are consistent with the fundamental objectives as provided in this Chapter; and
- b. encourage development of technological and scientific studies which enhance values.

- **Obligation Of The Mass Media**

The press, radio, television and other agencies of the mass media shall at all times be free to uphold the fundamental objectives contained in this Chapter and uphold the responsibility and accountability of the Government to the people.

- **National Ethics**

The national ethics shall be Discipline, Integrity, Dignity of Labour, Social Justice, Religious Tolerance, Self-reliance and Patriotism.

- **Duties of the Citizen**

It shall be the duty of every citizen to-

- a. abide by this Constitution, respect its ideals and its institutions, National Flag, the National Anthem, the National Pledge, and legitimate authorities;
- b. help to enhance the power, prestige and good name of Nigeria, defend Nigeria and render such national service as may be required;
- c. respect the dignity of other citizens and the rights and legitimate interest of others and live in unity and harmony and in the spirit of common brotherhood;
- d. make positive and useful contribution to the advancement, progress and well-being of the community where he resides;
- e. render assistance to appropriate and lawful agencies in the maintenance of law and order; and
- f. declare his income honestly to appropriate and lawful agencies and pay his tax promptly.

AN APPRAISAL OF GOVERNMENT IMPLEMENTATION OF THE FUNDAMENTAL OBJECTIVES AND DIRECTIVE PRINCIPLES OF STATE POLICY

The 1999 Constitution of the Federal Republic of Nigeria under chapter two makes provision for the fundamental objectives and directive principles of state policy, which are ideas to be pursued by government towards building a welfare society for the good of the citizens. These objectives are said to be fundamental because their progressive realization defines the essence of government. It is unfortunate that these laudable objectives that would have guaranteed the welfare of the people is subjugated under a constitution that conveniently relegates the rights to a decent living to the species of non-justiceable right. This accounts abundantly, while the government of Nigeria has been so lackadaisical to implement these objectives as enshrined in the constitution for the benefit of all.

Under section 6 subsection 6(c) of the 1999 Constitution, these objectives are declared to be outside the jurisdiction of law courts, in spite of the preceding subparagraph (a) of the same section, which vests on the judiciary inherent powers which ought to extend to every facet of human rights, including the right to meaningful life as enshrined in chapter two of the constitution. This is the irony of a Constitution that is said to be issued from the people. Will the people deliberately give to themselves what will not benefit them? What else could be more at the heart of law and governance than the welfare of the people is the law? (*salus populi est suprema lex*).

The policies of the State should of necessity be deployed towards securing for all citizens a decent standard of living which embraces suitable and adequate shelter, reasonable employment, medical and health facilities, facilities for social and leisure, religious and cultural life, and free education for all levels. These and more are the ingredients that constitute to public to public welfare which chapter two

seeks to cater for and they are fundamental to the existence of the State as an institution of governance. Since 1999 till date there has not been any sign of government commitment to these objectives. Supposedly, the machinery of government exists holistically to safeguard the welfare of the people, and it is ironical to declare a right to the protection of these objectives non-justiceable as the 1999 Constitution did.

These rights which roughly correlate with the third generational rights now recognized by the United Nations Organization and espoused in several international documents and instruments are now treated as basic rights which any country serious about development should incorporate in its Constitution and make justiceable because rights such as the one to education and clean portable water are hardly negotiable any more.

A Constitution is a serious document; these rights should not be contained in it if they are non-justiceable. The Chapter further provided that the press, radio, television and other agencies of the mass media shall at all times be free to uphold the fundamental objectives contained in this Chapter and uphold the responsibility of the Government to the people. How will the mass media fulfill this obligation when this section is non-justiceable? Laws that gag the press abound and yet the Constitution will not even protect media houses and media practitioners.

The presidential appointments by President Muhammadu Buhari which was dominated by one section of the country and adjudged to be lopsided by public opinion is a flagrant abuse of chapter 2, section 14, sub-section 3 of the Constitution of the Federal Republic of Nigeria. The action of the president as it affects the appointment can breed national disunity and national disloyalty amongst the citizenry. Until these provisions are made justiceable the government of the day cannot be held accountable.

Making the Fundamental Objectives and Directive Principle of State Policy justiceable would create an absolute duty on government to go for their realization both immediately and in the future. This will in turn give rise to an era of responsible government. Without making the realization of these objectives legally binding on the government the governed will continue to suffer gross neglect by those in government (Okeke, 2011).

CONCLUSION

The 1999 Constitution has packaged a parcel of good for Nigerians but by one stroke of sluggishness has kept the parcel without the reach of those for whom it has been made. It is not because of lack of ability to appropriate this parcel by the citizens but because the responsibility is not legally placed on the government as an obligation which make refusal to observe and implement them to amount to gross miscount that would attracts sanction.

According to Okeke (2011) making the Fundamental Objectives and Directive Principle of State Policy justiceable would create an absolute duty on government to go for their realization both immediately and in the future. This will in turn give rise to an era of responsible government. Without making the realization of these objectives legally binding on the government the governed will continue to suffer gross neglect by those in government.

Nigeria will remain under develop and the citizens will suffer the most, if we do not put our constitution right to hold those in government responsible for the attainment of these objectives.

RECOMMENDATIONS

The paper recommends as follows:

- That Government be made duty bound to implement this provision by incorporating it into the Fundamental Rights just as South Africa did to their 1996 constitution and be made justiceable.
- The observance and implementation of this provision as contained in chapter two of the constitution of the Federal Republic of Nigeria as amended should be the basis for the assessment of the performance of the government in power by the electorate
- When the government in power fails to conform to, observe and implement the said objectives, the electorate should vote them out of power in the next election.

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