



The Non-Justiciability Of The Fundamental Objectives And Directive Principles Of State Policy Under The Constitution Of The Federal Republic Of Nigeria, 1999 (As Amended) Vis-À-Vis, Its Justiciability In The Spirit Of The Law

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ABSTRACT

Nigeria, taking after the examples of Spain, Ireland and India to mention just a few of similar emergent democracies, stipulated the fundamental objectives and directive principles of state policy in its 1979 first autochthonous constitution, and transplanted same into the 1999 Constitution of the Federal Republic of Nigeria, (Cap. C23, LFN, 2004), which is specifically contained in chapter II of the 1999 constitution. Same constitution expressly declared the said chapter two of the 1999 CFRN to be non-justiciable by virtue of section 6 (6) C of the 1999 CFRN (as amended). It is intended in this work to contend the enforceability of the fundamental objectives and directive principles of state policy in the spirit of the law, against the non-justiciability of the chapter II of the Constitution of the Federal Republic of Nigeria, 1999 (as amended).

Keywords: Fundamental Objectives, Directive Principles, State Policy, Non-justiciability, Justiciability

1. INTRODUCTION

One of the visible innovations of the 1979 autochthonous constitutions and also contained in the current 1999 constitution of federal republic of Nigeria (as amended), following after the Indian experience, although a subject of contentious debate is the inclusion of the fundamental objectives and directive principles of state policy, contained in chapter two of the 1999 constitution of federal republic of Nigeria (now Cap. C2,3, LFN, 2004), Nigeria, following the examples of Spain, Ireland and India and some other emergent democracies, enshrined in its constitution a set of aims and objectives described as fundamental objectives and directive principles of state policy, for the first time in 1979. The argument whether or not these objectives and principles should be part of the constitution took a reasonable part of time and intellectual resources of the constitution drafting committee and the constituent assembly. While some were of the view that they should be kept out of the constitution and left in the realm of politics and ideological proclamations of governments, others were of the opinion that leaving them out was like leaving the state unguided and without a developmental road map or political manifesto. Some were also of the view that the nearest the ideals should get into the constitution, should be in the preamble and briefly as in the United States constitution. Others, whose views later prevailed, were of the stand that it is important enough to be given a chapter in the constitution.

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Authorities have questioned their relevance: should they really find a place in a document as sacred as the constitution? Ought not the constitution which is the supreme and fundamental law of the land be saved the legislative “ordeal” of having to embody mere moral adjurations and pious declarations whose wanton breach cannot arouse the curiosity of that watch dog of the laws of the land- the judiciary?, why not organize them into the organic laws which could be promoted and regulated in the ordinary legislative process?. These and many other questions necessitated the expression of my opinion in this article debate. According to the constitutional drafting committee, by fundamental objectives we refer to the identification of the ultimate objectives of the nation whilst directive principles of state policy indicate the paths which lead to those objectives. Fundamental objectives are ideals towards which the nation is expected to strive whilst directive principles lay down the policies which are expected to be pursued in the effort of the nations to realize the national ideal.² The rationale behind these non-justiciable declarations is that government of developing countries have been pre-occupied with political power and its material perquisites with scant or no concern for the welfare and state of the people. This charter, therefore, is imputed to remind the government that political office or power is not for personal aggrandizement but for the welfare, advancement and common good of all. These declarations are stipulated in sections 13-24 of the 1999 Constitution of the Federal Republic of Nigeria (as amended). Against the recommendation of the sub-committee of the 1979 constitutional drafting committee, headed by Prof. Ben Nwabueze, for a limited justifiability of these objectives and principles, the constitution divests the court of jurisdiction over 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 policy³.

2. Fundamental Objectives and Directive Principles of State Policy Under Chapter Two of The Constitution of The Federal Republic of Nigeria, 1999 (As Amended).

Chapter 2 of the Constitution of the Federal Republic of Nigeria contains the Fundamental Objectives and Directive Principles of State Policy, which are the ideals upon which the Nigerian nation is founded. These objectives and principles are like signposts, which point out to the government the direction that its policies should follow, in the words of the constitution.

According to Ben Nwabueze;

A constitution is the means by which a people organize itself into a political community and defines the aims and objectives of its association, the conditions of membership, the rights and obligations of membership, the organs and powers necessary for the conduct of affairs of the association and the duties and responsibilities of those organs to the individual members⁴

Although the structural outlay and nature of a nation’s constitution may be more complex than those of organizations within it or even of multilateral organizations, the essential attributes are invariably the same, though the volume and format of national constitutions are different in nature, they almost always seek to address the same concerns. It is argued that a constitution including a national constitution is the ideal document in which the aims, objectives and principles of a nation should be outlined, hence the inclusion of the fundamental objectives and directive principles of state policy as contained in chapter two of the CFRN, 1999 (as amended). The objectives and principles are as hereunder outlined:

In Section 14 of the Constitution, democracy and social justice are affirmed to be the foundation of the state. That section goes further to declare that sovereignty belongs to the people and that the security and welfare of the people shall be the primary purpose of government and that participation by the people in their government shall be ensured⁵.

² Report of the Constitutional Drafting Committee, VOL P.V.

³ Section. 6 (6) C, Constitution of the Federal Republic of Nigeria, 1999 (as amended). Cap. C 23 LFN 2004

⁴ B. O. Nwabueze; *Presidential Constitution of Nigeria* (1982) C. Hurst & Company in association with Nwamife Press, Enugu and Lagos, P.18.

⁵ Section 14 Constitution of the Federal Republic of Nigeria, 1999 (as amended) Cap. C23, LFN, 2004.

There are political objectives, economic objective: social objectives, educational objectives, foreign policy objectives and environmental objectives.

Section 13 specifically enshrined thus: "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 these objectives."⁶

The Political objectives are provided in section 15 and revolves around promotion of national integration whilst discrimination on the grounds of place of origin, sex, religion, status, ethnic or linguistic association or ties shall be eschewed, further, that the state shall promote and foster a sense of belongingness and of involvement among the various people of the Federation, to the end that loyalty to the nation shall override sectional loyalties and finally that she state shall abolish all corrupt practices and abuse of power⁷.

The Economic objectives are provided in section 16 and are directed towards the promotion of a planned and balanced economic development in which the, material resources of the nation are harnessed and distributed as best as possible to serve the common good and equal participation of citizens and constituent groups of the nation and provide suitable and adequate shelter and welfare services to citizens. This, the constitution directs, should be achieved by the harnessing of the resources of the nation and promoting national prosperity and an efficient, dynamic and self-reliant national economy, controlled 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 to manage and operate the major sectors of the economy, and 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 economy⁸.

The Social Objectives are provided in section 17 and founded on ideals of freedom, equality and justice. To ensure and enhance the equal treatment of citizens, the sanctity and dignity of the human person, humane Government actions, prevent exploitation of human and natural resources for reasons other than the good of the community and to ensure and secure the independence, impartiality and integrity of courts of law, and easy accessibility thereto. To strive to ensure that 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 under just and humane conditions of work and finally, to ensure and encourage the evolution and promotion of family life⁹.

The Educational Objectives are stated in section 18 and directed towards the provision of equal and adequate educational opportunities at all levels. This includes free primary, secondary and tertiary education as well as adult literacy programme¹⁰.

The Foreign policy objectives provided in section 19 are directed towards the promotion and protection of national interest and African integration and unity, international cooperation, universal peace and the promotion of a just world economic order¹¹.

The Environmental objectives in section 20 are directed towards the protection and improvement of the environment and safeguarding the water, air and land, forest and wild life of Nigeria¹².

⁵ Section 14 Constitution of the Federal Republic of Nigeria, 1999 (as amended) Cap. C23, LFN, 2004.

⁶ CFRN, 1999 (as amended) S. 13

⁷ Ibid, S. 15

⁸ CFRN, 1999 (as amended) S. 16

⁹ Ibid, S. 17

¹⁰ CFRN, 1999 (as amended) S. 18

¹¹ Ibid, S. 19

¹² Ibid, S. 20

The directive on Nigerian cultures is provided in section 21 and directs the Nigerian State to strive to protect, preserve and promote the Nigerian cultures which enhance human dignity and are consistent with the fundamental objectives as provided in this chapter; and encourage development of technological and scientific studies which enhance cultural values¹³.

The Directive on Mass Media is provided in section 22 and directed towards attaining and ensuring press freedom and further directs the press, radio, television and other agencies of the mass media to at all times be free to uphold the fundamental objectives contained in chapter II of the constitution and uphold the responsibility and accountability of the Government to the people¹⁴.

Section 23 provides for the national ethics which are declared to be discipline, integrity, dignity of labour, social justice, religious tolerance, self-reliance and patriotism¹⁵.

Section 24 provides for the duty of citizens which are declared to be the following;

- a. Abide by this constitution, respect its ideals and its institutions, the 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 interests 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 promptly¹⁶.

The chapter commences with the expression 'it shall be the duty and responsibility of all organs of government....' A duty is a mandatory responsibility-and so it is mandatory that Government complies with the provisions of chapter two. For the above reason, it can be said that the chapter confers rights upon the people who may demand that the Government should comply with the directives.

3. The Non-justiciability of The Fundamental Objectives and Directive Principles of State Policy

The position of non-justiciability of chapter two of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) is therein expressly provided thus;

the judicial powers vested in accordance with the foregoing provisions of this section shall not except as otherwise provided by this constitution extend to any issue or question as to whether any act or omission by any authority or person or as to whether any law or any judicial decision is in conformity with the fundamental objectives and directive principles of state policy set out in chapter II of this constitution¹⁷.

It is important to note that these rights are non-justiciable, Pursuant to the above stipulation. This is because the above section provides that the judicial powers vested in the judiciary, shall not except as otherwise provided by this constitution, apply to any issue or question as to whether any act or omission by any authority or person, or as to whether any law or any judicial decision is in conformity with the fundamental objectives and directive principles of state policy set out in chapter II of this constitution.

¹³ Ibid, S. 21

¹⁴ CFRN, 1999 (as amended) S. 22

¹⁵ Ibid, S. 23

¹⁶ Ibid, S. 24

¹⁷ Section 6 (6) C of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) Cap. C23, LFN, 2004.

The Supreme Court of Nigeria affirmed this position when it affirmed that a question as to whether the action of the Gwoza Local Government Area in Bornu State in practicing a discriminatory educational policy based on religion was not unconstitutional¹⁸.

Notwithstanding the above, the Supreme Court in another case, opined that while fundamental objectives and directive principles cannot be enforced by legal process, “it would be seen as a failure of duty and responsibility of state organs if they acted in clear disregard of them”. According to the Supreme Court:

It has been argued that the fundamental objectives and the directive principles of state policy are meant for authorities that exercise legislative, executive and judicial powers only and therefore any enactment to enforce their observance can apply only to such persons in authority and should not be extended to private persons, companies or private organizations. This may well be so, if a narrow interpretation is to be given to the provisions, but it must be remembered that we are here concerned not with the interpretation of a statute but the constitution which is our organic law or grundnorm. Any narrow interpretation of its provisions will do violence to it and will fail to achieve the goal set by the constitution¹⁹.

It is pertinent to note that the rights in chapter 4 of the constitution are injunctive or negative rights requiring the state not to do certain things or interfere with certain basic citizenship liberties or privileges, the rights in chapter 2 are positive, prescribing what government should do or better still, what they must bear in mind in formulating and implementing public policies. The rationale for chapter 2, according to Nwabueze is that;

Public welfare as the object of government should be given constitutional force, by making a positive declaration in the constitution to that effect. Coupled with a directive as to the broad lines of policy to be pursued by government in furtherance thereof²⁰.

A school of thought has questioned the rationale for including these non-justiciable objectives and principles in the constitution. According to this school of thought, a constitution is a sacred document that should have no room for empty declarations of objectives and sentiments. This school holds that every provision of the constitution should be enforceable as a mark of its seriousness.

This argument, attractive as it appears, misses the point, because the desirability of including these objectives and principles in the constitution is predicated on the role they play as guides of all national effort. Without them, the state would be rudderless. The following reasons have been adduced for the non-justiciability of the provisions of chapter II of the 1999 constitution;

- a. The provisions are directed at future actions and based on aspirations. The courts do not enforce aspirations and mere policies or promises for which no sufficient institutional or personal consideration has been supplied. They are thus no intention to create legal obligations on those provisions.
- b. They are based on and conditional upon availability of means which are matters that cannot ordinarily be within the jurisdiction of the courts as public revenue and resources are controlled by the National Assembly and vary from time to time.
- c. They are very general in nature and thus do not parse involve the civil rights and obligations of citizens, *locus standi* may thus be difficult to establish.

¹⁸ *Attorney General of Bornu State v. Adamu* (1996) 1 NWLR (pt. 427) 681 (CA).

¹⁹ *Attorney General of Ondo State v. Attorney General of the Federation* (2002) 9 NWLR (pt. 772) 222

²⁰ B. O Nwabueze, *Constitutional Democracy in Africa*, Vol. 1: (Spectrum Books Ltd: Ibadan 2003)

4. Arguments for the Inclusion of the Fundamental Objectives and Directive Principles of State Policy in the Constitution

In the words of Ben Nwabueze, under the great debate, such provisions are essential, not legal, serving as mere exhortations to direct and inspire government actions, and to bestow upon them the stamp of legitimacy.²¹

This is a statement which initially appears to be absurd or contradictory, but which on closer examination has some sense of justiciability or capable of enforcement in courts of law.

Chief Justice Marshal of the US Supreme Court once declared thus;

*The government proceeds directly from the people, is ordained and established in the name of the people... in form and in substance it emanates from them. Its powers are granted by them, and are to be exercised directly on them and for their benefit... it is the government of all its powers are delegated by all. It represents all; and acts for all*²².

If the reasoning of His Lordship is anything to reckon with, then it may well be argued that government needs no judicial sanction to promptly carry out not only the letters, but also the spirit of the constitution, even if such constitutional provisions are not justiciable, in the end we find the argument of Wheare who asserted that a constitution, being the fundamental law of the land, is self-executory²³. A view which is reechoed by the Lord Justice C.J. Marshal thus; “... **a constitution cannot reasonably be treated with the same levity and light heartedness as an ordinary Act of the congress or parliament, for if brought into contempt, the result will be chaos and disorder.....**”²⁴

Similarly, Ambedkar in his view, argued thus;

*If it is said that the directive principles have no legal force behind them, I am prepared to admit it. But I am not prepared to say that they have no sort of binding force at all. Nor am I prepared to concede that they are useless because they have no binding force in law... it is the intention of the assembly that in future both the legislature and the executive should not merely pay lip service to these principles but that they should be made the basis of all legislative and executive action and they may be taken hereafter in the matter if the government of the country*²⁵.

In view of the above considerations it would appear not only myopic but also a preposterous betrayal of discernment to consider these directives as mere political manifesto without any legal sanction, or to characterize them as nebulous and indefinite moral homily devoid of any useful purpose.

But are there no arguments and indeed enough reasons to expunge this paper tiger provision from this document? A legal authority on constitutional law, Prof. K.C. Wheare, responding to the question of what should be included in the constitution pounded out that the very minimum, and that minimum to be rules of law. Where does the confidence of the people lie if the constitution is treated with levity and such treatment cannot be litigated upon? It is germane to mention that the essence of law is limitation in governmental and popular actions. These were also the views of Nwabueze who incidentally argued for the inclusion of these non-justiciable clauses. There can be no doubt that the core and the substantive element of constitution is the limitation of government by a constitutional guarantee of individual civil liberties enforcement by an independent tribunal.

It is submitted that a constitution, following K.C. Wheare’s opinion should evoke not only the respect due to law but also the added reverence due to supreme law. If it must be precise and concrete, then a constitution must confine itself, therefore, as completely as possible to stating rules

²¹ Otikor U. J., ‘The Solicitor’, *A Journal of the Law Students’ Association of Rivers State University, Port Harcourt (2007) Vol.VII, P31*

²² *McCulloch v. Maryland* 17 U.S. 316; (1819) U.S. LEXIS 320; 4 Wheat 316

²³ K.C Wheare, *Modern Constitutions* Second Edition, Third impression. (Oxford University Press: London 1966)

²⁴ *Marbury v. Madison* 5U.S. 137 (1803).

²⁵ B.R. Ambedkar; *Thoughts on Linguistic* quoted by M.V Pylee in *India’s Constitution*, 1963 Ed. At 5.

of law, not opinions, aspirations, directives and policies, as these are nothing but tendentious declarations. To make the provisions of chapter 11 reasonable and meaningful, two recommendations are made: either, the more important provisions in the chapter should be transplanted into the justiciable part of the constitution or the judicature and the legislature should be proactive, conscious and deliberate in making the chapter litigable through their instrumentalities of law making and judicial interpretations on the subject matter under consideration in order to ensure that no part of the constitution becomes merely ludicrous.

5. The Justiciability of the Fundamental Objectives and Directive Principles of State Policy in the Spirit of the Law

What then is the relevance of these lofty declarations? In the absence of justifiability, does it mean that these fundamental objectives and directive principles are merely moral codes and cosmetic in nature? The response will obviously be in the negative. But, it appears to me that the efficacy of these declarations depends on the political consciousness of the people of any given state. The mere non-justiciability does not outrightly divest them of all legal value, as a fearless, proactive and bold judiciary may yet crown them with some legal significance, as it is usually said in legal realism that it is the judicature that gives life to the dead words of statutes. The court seems to have authoritatively expressed this opinion through the dictum of Per Niki Tobi, JSC, when it remarked thus;

The non-justiciability of section 6(6)(c) of the constitution is neither total not as the subsection provides a leeway by the use of the words “except as otherwise provided by this constitution”. This means that if the constitution otherwise provided in another section, which makes a section or sections of chapter II justiciable it will be so interpreted by the courts.²⁶

The Indian court also has interpreted its unenforceability clause in Article 37 of the Indian Constitution to mean that the state cannot be forced to carry the objectives out where it will be impossible to so do. The directives do not create a legally binding constitutional limitation upon legislative power.

The fundamental objective and directive principles of state policy being the cannon for political assessment, could be used to shape the polity, resolve certain statutory, ambiguities and also form the basis of court decision in the event of conflict of laws²⁷. The Indian experience was demonstrated in the case between The State of Bombay and Balsara Air, where the Indian directive principles formed the basis for justifying the reasonableness of a legislative restriction on the citizen's right to ownership and acquisition of property. However in the event of conflict between these objectives and any justiciable provision, the latter is to be preferred.²⁸

In one of the cases under consideration, the Indian Supreme Court held that what is not judicially enforceable cannot be preferred to what is justiciable. The directive principles... have to conform to and run as subsidiary to the chapter of fundamental human right. Similarly, the erudite Ben Nwabueze adopted this approach when he declared thus;

It is preposterous to suggest that the ideological precepts of society should supplement or override the law as the basic for judicial decision. Its proper function is as sources from which interpretative principles are to be distilled, principles which would ensure that governmental action are informed by the objectives and values of the nation, they may be used to resolve doubts in favour of or against particular government measures.²⁹

In the light of the above, does the non-justiciability mean that the provisions in chapter 2 of the 1999 constitution cannot be enforced? The answer is still a resounding no.

²⁶ *The Federal Republic of Nigeria v. Alhaji Anache & Ors, in Re Olafisoye* (2004) ALL FWLR (Pt.198) 1106 at. P.1153

²⁷ *The State of Bombay v. Balsara, Air* (1951) SC 318.

²⁸ *Nafiu Rabiu v. Kano State* (1980) 8 – 11 SC 130; *The State of Madras v. Champakam Doriarajim* (195) SC. 226.

²⁹ Ben Nwabueze; *Judicialism in Commonwealth Africa*, (C Hurst & Company: London, 1977), p.143.

Firstly, the constitution provides for a federal character commission charged with the duty of monitoring, promoting and enforcing compliance with social and political objectives of state policy.³⁰ In giving effect to the provisions of section 14(3) and (4) of the constitution, the commission shall have the power to;

- (a) Work out an equitable formula subject to the approval of the National Assembly for the distribution of all cadres of posts in the public service of the federation and of the states, the armed forces of the federation, the Nigeria police force and other government security agencies, government owned companies and parastatals of the states.
- (b) Promote, monitor and enforce compliance with the principles of proportional sharing of all bureaucratic, economic, media and political posts at all levels of government.
- (c) Take such legal measures, including the prosecution of the head or staff of any ministry or government body or agency which fails to comply with any federal character principle or formula prescribed or adopted by the commission, and
- (d) Carry out such other functions as may be conferred upon it by an Act of the National Assembly.

Secondly item 60 (a) part 1 of the second schedule to the constitution gives the federal government the power to establish authorities for the federation or any part thereof to “(a) promote and enforce the observance of these objectives and principles. This is certainly a form of executive self-sensor by which agents of government can be monitored and called to order or made accountable in-house.

Thus, in giving effect to section 20 which provides for the pursuit of the national environmental objective, the National Environmental Standards and Regulations Enforcement Agency (NESREA)³¹, and the National Oil Spill Detection and Response Agency (NOSDREA)³², were both established in compliance with the Fundamental Objectives and Directive Principles of state policy with the power to operate throughout the Nigeria federation. Also in giving effect to s. 15 (5) which provides that the state shall abolish all corrupt practices and abuse of power the federal government established the economic and financial crimes commission (EFCC and the sister agency, the independent corrupt practices commission (ICPPC) with power to operate seriatim . This power was upheld to be constitutional by the Supreme Court in the exercise of its authoritative finality.³³

Thirdly, legislating upon a subject in the chapter under focus will render the subject enforceable. The Supreme Court also affirmed this in the above case of the Attorney General of Ondo State v. Attorney General of the Federation, wherein they agreed with the Indian Supreme Court that the fundamental objectives and directive principles can be implemented and made enforceable by legislation.³⁴

This manifestly appears to be the case with the enlarged rights created in chapter 4 of the 1999 CFRN (as amended), which is mutatis mutandis with the African Charter on Human and Peoples Rights of 1981. Several rights contained therein fall within the content of chapter two of the constitution, the fact that they have been legislated upon through the Acts of parliament appear to have given them legal teeth.³⁵

Fourthly, chapter two can be enforced by impeachment proceedings, as its breach can be construed by the legislature, to constitute a breach of the oath of office. Thus, although citizens cannot litigate the breach of the provisions of chapter II, they can through their legislative representative, cause the legislature to commence impeachment proceedings against the head of the government especially where the government intolerably continues to pursue policies that are habitually contrary to the intents, purpose and spirit of the fundamental objectives and directive principles of state policy commanded by the

³⁰ Item 8. (1) of the Third Schedule to the 1999 Constitution, of the Federal Republic of Nigeria.

³¹ National Environmental Standards and Regulations Enforcement Agency Act (2007)

³² National Oil Spill Detection and Response Agency (Establishment) Act, 2006

³³ N -19

³⁴ *Mangru Meya & Others v. Commissioner of Budge Budge Municipality* (1951) 87 CLI 369.

³⁵ *Sani Abacha and Others v. Chief Gani Fawwehinmi* (2002) 6 NWLR, 228.

constitution. It is important to note that when there is a conflict between a fundamental objective and a fundamental right, the latter takes precedence.³⁶

CONCLUSION

Having comprehensively x-rayed the subject under consideration, with reference to both statutory, judicial and juristic authorities, I make haste to conclude by stating that, although the chapter II of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) is expressly declared to be non-justiciable by virtue of section 6 (6) C of the CFRN, 1999 (as amended), I finalize this article by adopting the indubitable dictum of Per Niki Tobi, JSC as hereunder stated, as my;

In the light of the above, I reject the argument of learned senior advocate for the appellant that the provision of chapter 2 are not justiciable in virtue of section 6 (6) (c) of the constitution. I accept the argument of learned Assistant Director for the respondent that the provisions could be justiciable³⁷.

By the above authority of the Supreme Court of Nigeria and several other authorities showcased in this article, I strongly hold that the fundamental objectives and directive principles of state policy are both non-justiciable and justiciable, depending on the circumstance.

³⁶ *Tukur v. Government of Gongola State* (1989) 4 NWLR (pt. 117) 517; *Badejo v. Ministry of Education* (1990) 2 WRN 88, *Madras v. Champakam* (1951) SCR 525; *Ishola v Ajiboye* (1994) 6 NWLR (pt. 352) 506.

³⁷ *Olafisoye v F.R.N* (2004) 4 NWLR (pt. 864) 580; (2004) 1 S.C (pt. II) 27