

# POVERTY ALLEVIATION AND THE CONTROL OF PUBLIC REVENUE: LEGAL AND EQUITABLE ISSUES\*

## Introduction

Apart from the dreaded Acquired Immune Deficiency Syndrome<sup>1</sup> now ravaging the world, and particularly the Africa continent, no other scourge has had such a devastating impact on both the ancient and modern world as the scourge of poverty. In the words of the World Health Organisation, poverty wields its destructive influence at any stage of human life from the moment of conception to the grave. It conspires with the most deadly and painful disease to bring a wretched existence to all who suffer from it. The desire to alleviate or, if possible, eliminate, poverty has engaged the attention of successive governments in Nigeria, both civilian, quasi-civilian<sup>2</sup> and military. Even till today, the world is still in search of a solution to global poverty, which is why the United Nations has presently put poverty alleviation, particularly as relates to the legal and equitable issues involved, is also the quest of this paper.

Before going further, however, it is important to ensure that we are talking about the same thing, or rather, that we are agreed as to the meaning(s) of the words or terms used herein.

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<sup>1</sup> More widely known by the acronym, "AIDS"

<sup>2</sup> Such as when we had elected civilian Governors in the States and State Assemblies, but with military "President" who along with his cabinet doubled as law makers at the national level.

## Definition of Terms

*Poverty* is generally equated with indigence, i.e. insufficient property to furnish a person with a living; financial disability or lack of means of comfortable subsistence so as to be in want<sup>3</sup>. It is arguable that "insufficiency of means" is a relative term. Accordingly, there are two basic types of poverty. One is relative poverty, and the other is absolute or real poverty.<sup>4</sup> Our concern here is not with relative poverty, for there is no way this category of poverty can be eradicated. Indeed, such eradication is not even desirable, particularly in a capitalist society like ours. It is an incident of capitalism that one man/woman will always be better off than the other. In other words, one person will always be poorer than or relatively poor compared to another. Indeed, even between countries, the comparative conditions of a group, a household or individuals will leave one group relatively poor. Not much can be done about this type of poverty. However, even in such case Government can, and ought to, as a deliberate public revenue policy adopt measures to narrow the gap in relative poverty.

Our concern is with real or absolute poverty. This is the absence of fundamental human needs and expectations. Here, the condition of a group, a household or an individual is below poverty line. For this group of people, poverty becomes synonymous with lack of a future, lack of progress, lack of

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3. *Powers V. State*, 194 Kan. 820, 402 P.2d 328, 332.

prospects, lack of development, and the need for poverty alleviation becomes elevated to the same pedestal with the right to development<sup>4</sup>, which is now universally acknowledged as a third generation (human) right. "Development" in this sense is itself synonymous with "modernization",<sup>5</sup> and embraces both individual and national betterment and cuts across the mental, physical, educational, health, social and commercial sectors. Like development, poverty alleviation implies better education, enlightened creative populace, better road networks, constant electricity supply, better and constant water supply, gainful employment and better clothing, better food and houses, ownership of automobiles, radios, television and functional telephone sets and, generally, a happier people. Now that freedom from real poverty, or the right to development, is an inalienable human right, it saddles the Nigerian Government with the duty to formulate appropriate national development and poverty alleviation policies that aim at constant improvement of the well-being of the citizenry<sup>6</sup>.

*Public revenue* is simply the income received by the government, such as from taxes, customs, franchises or services and Petroleum<sup>7</sup>. Public revenue is used, or is supposed to be used, for public good, i.e. for the provision of

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4. There is admittedly no commonly agreed definition of "development", and the definitions that abound only reflect the intuitive value-sets of their authors. Seidman, R. B.: *The State, Law and Development*. Croon Helm, London (1978) p.55

5. Seers, D.: "The Meaning of development" (1969) Vol.II *International Development Review*, at p.2

6. See Articles 2, 8 and the Preamble to the Declaration on the Right to Development, adopted by General Assembly resolution 41/128 of 4 December 1986.

7. "Business Dictionary", p. BD - 79, an appendix to the *New Lexicon Webster's Dictionary of the English Language*, Deluxe Encyclopedic Edition (1991 edn., rev'd and updated in 1992).

those economic goods or/and services which the government, federal, state or local, makes to its citizens, and this includes such things as public roads, public health programmes, public libraries, public parks, education and better standard of living.

### Poverty Alleviation Measures

It probably requires no argument that poverty cannot be eradicated; poverty can be alleviated but cannot be eradicated, for even in developed economies of the first world countries we still have a handful who live below the poverty line: pimps, red-heads, it can only be alleviated. Nigeria has had many poverty alleviation programmes. Such programmes have been packaged under labels as many and divergent as the administrations Nigeria has had and have as well reflected the ethical orientation of those behind them<sup>8</sup>. For instance, we can vividly recall the "Operation Feed the Nation" (OFN) embarked upon by the then General Obasanjo military administration between 1976 and 1979. The object was to make food available for all and thereby reduce hunger. There was also the Green Revolution of the Alhaji Shehu Shagari civilian administration between 1979 and 1984. The General Babangide military regime came up with such poverty alleviating programmes as Structural Adjustment Programme (SAP), National Directorate of Employment (NDE) Scheme, Peoples Bank, Community Bank, Mass

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8. D. Dakolo, "Again the challenge of Poverty Alleviation", Guardian, Tuesday February 1, 2000 at p.12

Mobilization Programme, Directorate for Economic Reconstruction, Directorate of Food, Road and Rural Infrastructure (DFRRI) and the Better Life for Rural Women programme, which was meant to enhance the welfare of the rural women but which actually enhanced the welfare of the already rich urban women. The General Abacha regime evolved the Family Support Programme (FSP) and the Family Economic Advancement Programme (FEAP).

The present administration has embarked on Poverty Alleviation Programme (PAP). Under the programme, the Government earmarked the sum of N10 billion for the creation 200,000 jobs in the year 2000. The creation of jobs was reportedly borne out of government's desire to eradicate poverty because the incidence of poverty and unemployment has assumed a dimension that is socially, economically and politically unacceptable<sup>9</sup>. Government noted that as at the year 2000 over 60% of the citizens of this great country Nigeria lived below poverty line<sup>10</sup>.

It is sad, however, that in real terms, the Poverty Alleviation Programme does not create real jobs and much of the funds goes to over heads and into the pockets of the "haves" rather than those of the "have nots". It is therefore no

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9. Guideline for the implementation of the Poverty Alleviation Programme of the Federal Government of Nigeria, at p.3

10 Ibid

surprise that Government came up with the idea of replacing it with the Poverty Eradication Programme. The success of this new programme waits to be seen. We however have our doubts, as stated earlier, that poverty, particularly relative poverty, can be eradicated. In our view the poverty alleviation programme is laudable in its conception. The fault lies only in the implementation. To alleviate poverty, Government has to create real jobs – not odd jobs or jobs meant only to postpone the evil day. To create such real jobs Government has to diversify the economy as a deliberate policy; it has to encourage private sector participation in development; it has to provide real and qualitative education to its citizenry. In qualitative social stratification, a graduate child from a lower class home automatically moves himself up to the middle class of the society by virtue of his university education. This is because the higher education equips him with vast and specialized knowledge, guarantees him a much better job, gives him great respect in society. This, however, is not the case in Nigeria. A situation where the basic laboratory equipments are non-existent in college/university laboratories, where law libraries cannot subscribe to standard journals and basic law reports nor buy the major texts due to gross under funding, cannot lead to real or qualitative education. Qualitative education is one which equips the graduates to fend for themselves using the knowledge they have acquired. Where half-baked graduates are just turned out without proper or full grounding, due to the poverty of instructional facilities, their “education” is in fact worsened rather than bettered them. The result is that we have

graduates who cannot, or who do not have enough confidence to, apply their trade. They thus stay idle and look for white collar job. It is our view that "poverty alleviation has to be directly linked to government policies"<sup>11</sup>, particularly its policy towards education. There is no way that poverty can be alleviated without the present Government's policy towards education being reversed. It is true, as already shown, that Nigeria has had quite a number of programmes aimed at alleviating poverty. So far, all the programmes have failed. This should instruct us that the answer does not lie in abstract, conceptual programme. The answer lies in proper implementation and strict adherence to well articulated poverty-related government policies. It remains true that proper education is a very potent escape route from poverty. Both access to education and freedom from poverty are now matters of international concern, and Nigeria cannot afford to be an island unto itself. The United Nations Human Right Charter recognizes poverty as a brutal denial of human right. This probably is why the present administration embodied the poverty reduction and alleviation programme in its Economic Blueprint for 1999 – 2003. Under this programme, poverty alleviation scheme in Nigeria is broken into four phases. In the place, emphasis is on education or training of youths who have had no education at all along with School Certificate holders so as to bring them to School Certificate Level. This is under the Capacity Acquisition Programme (CAP). The youths are sent on a

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11 "Bad Polices crippled poverty". Guardian, Saturday, January 6, 2000, p.11.

three-month training programme to enable them acquire some skills. While in training they are paid N3,000.00 per month.

In the second phase participants in the poverty alleviation programme are university graduates and Higher National Diploma holders. They are supposed to be attached to industries, organizations and firms under the Mandatory Attachment Programme (MAP) in order to enable them acquire experience in their different fields of studies (a tacit admission that their university education was deficient). This is expected to enable them set up their own trades, occupation or profession.

The third phase in the Poverty Alleviation Programme is the Rural Infrastructure Development Scheme (RIDS). The intention here is to supply portable water and irrigation to the rural areas. Other projects within this scheme include transportation, waterways and jetty development as well as other social welfare projects (SOWEES). The fourth phase is the National Resources Development and Conservation Scheme (NRDCS), which is concerned with the exploration of all mineral resources in the country and the development of water resources. Other projects within this scheme include the protection of the environment from degradation, marine and aquatic culture.

There is also the micro-credit scheme, under which "Soft Loans" are granted to participants to enable them purchase equipment to set up their trade or



profession. It is hoped that it will inevitably enable them employ others and generate a multiplier effect therefrom. These are all heart-warming conceptions; as we earlier stated, their implementation leaves much to be desired. However, even in their conception, the poverty becomes revealing when matched against well articulated and honestly implemented poverty alleviation programmes of other countries.

In the United States of America, for instance, the war on poverty was initiated by President Lyndon Johnson in the 1960s. It was prosecuted by the Economic Opportunity Act of 1964 which created the Office of Economic Opportunity (OEO) to administer the programme. OEO started a number of projects to combat poverty on a broad front. In addition the Community Action Programme (CAP) provided legal assistance to the poor in dealing with such problems as housing violations, sales agreement and welfare regulations. CAP also assisted impoverished children through pre-school to its head start programme. Impoverished young people were provided vocational training and remedial education in centres outside slum areas. In collaboration with the Department of Labour and Health Education and Welfare, OEO also assisted adults through a number of programmes providing jobs, job training and literacy improvement classes.

Besides, the Unemployment Insurance Scheme had been introduced in America since 1935. By this scheme, qualified workers received cash payments during limited periods of unemployment. These payments were

meant to protect the individual worker from complete loss of income while he was unemployed. They also helped prevent his unemployment from triggering loss of income in businesses which were dependent on his purchasing power. Under the Social Security Act of 1935, all States were compelled to introduce compulsory unemployment insurance programmes. By this, the average unemployed worker in the United States receives a weekly payment for a period of 26 weeks during low unemployment periods. During periods of high unemployment, weekly benefits payments are extended. The programme is financed by the federal and state payroll taxes and are paid by employers.

Many modern industrial nations have supported and adopted unemployment insurance programmes. In the United Kingdom for instance, a gradually evolved social welfare/security system was set up in 1948. It provides national insurance, individual injuries insurance and family allowances. The National Insurance Scheme provides benefits for sickness, unemployment, maternity and widowhood benefits, death grants, etc, to citizens.

In France, the Social Security Administration controls social insurance, family allowance and workmen's compensation. A Law of 1966 made Social Insurance compulsory in France. In Germany, on the other hand, social insurance services had been in place since 1881. It includes insurance for sickness, accident, old age and disability, unemployment insurance, workmen's compensation, etc. The social security system is financed entirely by the State.

There are some similarities between the American and Nigerian Poverty Alleviation Programmes. However, the Nigerian programme has not been tailored towards helping adults. Besides, apart probably from phase one (CAP), the Nigerian programmes are generally still on the drawing board. In any case, the Nigerian programme does not directly tackle the three basic necessities of life: food, clothing and shelter. The idea appears to be that once a person is gainfully employed he will be able to take care of himself. This is a fundamental misconception, for there is always an alarming number of the unemployed, the unemployable and the underemployed. If any progress is to be made in the war against poverty, the basic necessities of life (food, clothing and shelter) must be directly provided for. According to the World Food Organisation, poverty alleviation must start with agriculture because the poor and under-nourished are heavily concentrated in rural areas. Their fight must necessarily begin with agriculture and rural development. It is noteworthy that in its war against poverty in America, food supplements were offered. Nigeria can do the same. Government must also build houses for the poor instead of engaging in real estate business for profit in the name of poverty alleviation. How can a man who cannot even feed himself find thousands if not millions of naira to purchase a two or three bedroom flat? As we all know, many Nigerians in urban areas sleep under bridges and on road sides. As for clothing, it is our view that the plight of the poor can be alleviated by provision of cheap clothing such as "Aso-oke" fabric or "ankara". This would not be half as expensive as the warm clothing

allowance which is paid to the poor and low income groups in winter in some countries. What Nigeria lacks is the political will, the social focus and the honesty of purpose. The so-called "Nigerian factor" (a euphemism for greed, avarice, nepotism and corruption) has eaten deep into the moral and psychological fabric of Nigerians. One hopes however that the adage is indeed true, that every cloud has a silver lining.

### Control of Public Revenue

It hardly requires any emphasis that public revenue, as earlier defined, has to be prudently controlled and applied if poverty alleviation is to be achieved.

Embezzlement, misappropriation and brazen looting of Nigeria's public revenue by those occupying public or political offices has fast become a way of life. The corrupt Practices and Other Related Offences Act, 2000 (sometimes referred to as the Anti-corruption Law) does not appear to have any impact on the endemic corruption in high places. Part of the reason for corruption, which is also part of the reason why the poor majority still remain poor, is the over-centralization of public revenue. The center (which belongs to everybody, and therefore to nobody) is super-rich at the expense of the federating States. It is here suggested that fiscal federalism would certainly make for poverty alleviation. It would be recalled that fiscal federalism existed under the 1963 Constitution, which allowed the regions to own, control and develop the natural resources which were located on their land. By that arrangement, the owner and producer-States would then cede an agreed

percentage of their revenue to the Federal Government as Tax for the maintenance of the common services of the Federation such as defence, foreign affairs, currency, immigration, customs, etc<sup>12</sup>. In that case, the principle of derivation will only be relevant in the sense that the Federal Government derives revenue from the State and no distribution or allocation back to the State is required. It is submitted that where States are allowed to control the natural resources in their territory they would be put in funds to better attend to the poverty remedial needs of the people at the grassroot. Since the federation consists of States, it is the states which are nearer to the people and are therefore better placed to immediately appreciate the needs of the people first hand. This would aid monitoring of poverty alleviation programmes and prevent the overburdening of the central government. The existing revenue allocation formula completely ignores the environmental/ecological and health effects of oil company activities on the poor indigenes of the oil producing areas. Water pollution throws the local fishermen in joblessness; land defacement and oil spillage further aggravate the poverty of local farmers. Generally speaking, it is the particular oil producing states and indigenes thereof that feel the negative, impoverishing effects of crude oil exploration, exploitation and production. These people should not be denied the means to better their lot. It is only when this is done that the word "justice" would have its proper meaning. It is particularly

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12. D. A. Ijalaye, *The Imperatives of Federal/State Relations in a Fledging Democracy: Implications for Nigeria*, 2001, NIALS, Lagos at p.22

pathetic that the Presidential Committee on the Review of the 1999 Constitution appreciated this injustice in the revenue allocation formula of just "not less than 13%" in the Constitution<sup>13</sup> but then played the ostrich by not making a specific recommendation other than that it should be "increased substantially beyond the 13% minimum"<sup>14</sup>, thus opening up another controversy as to what is "substantial". Right now, Nigeria's main source of public revenue is oil, and has been so since in the 1970's. Unless there is a major defect in government policy, there is no reason why those who come from areas where the wealth of the nation is derived should be the most poverty-stricken; there is no reason why the bulk of the country's poorest people should be in or come from the oil producing areas. It is a cruel paradox that those who live by the seaside are the ones who wash their hands with spittle. There is need to urgently address and reverse this trend.

### Legal and Equitable Issues

A number of legal, equitable and even politico legal issues lie in the way of poverty alleviation in Nigeria. Take the issue of population control for instance. It is arguable if over-population is a cause or a consequence of poverty. It is however unarguable that a controlled population will reduce poverty. It may well be that poor people tend to have more children than they can cater for, and thereby engender more poverty, but if this view is correct, it

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13. S. 162 (2) of the 1999 Constitution.

14. Report of the Presidential Committee on the Review of the 1999 Constitution, Vol.1 (Main Report), February, 2001 at p.44.

follows that a policy of real job creation will have the twin effect of checking over-population and alleviating poverty. The problem in Nigeria is that population figures are deliberately ballooned in some areas so as to beneficially influence revenue allocation to such areas. As long as this continues, the areas with truly large population remain financially cheated and impoverished. The only way of solving this is by conducting an accurate and honest census in the country. Every citizen should be issued a national identity card which should be used for most national purposes including voting at elections.

Still on the legal aspect, there is a need to enact a law on poverty alleviation programme. What is operating now is a poverty alleviation policy comprising statements in annual budgets of the Federal and State Governments without any legal backing. It is instructive that without the Economic Opportunity Act of 1964 in the United States for instance the War against poverty in that country could never have gathered the momentum it did.

To alleviate poverty, Social Security and Insurance Legislation should be introduced in Nigeria as is done in other countries of the world. To stem the tide of public revenue flight into private pockets<sup>15</sup>, the Corrupt Practices Act

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15. As reported in "Poverty and its brigade", *Guardian*, Jan. 25, 2001, p.22: "Nobody has beard from one Nigerian, and I mean one single Nigerian, to the effect that his or her poverty has been ameliorated. No government official has given a credible account of where the billions for Poverty Alleviation went. It enables some wealthy Nigerians to put away more of the Nations dwindling resources. perhaps some of them were able to build more houses, get more cars, buy expensive jewelry or fatten their Bank account. What we had is otherwise a wealth augmentation (or wealth enhancement) and not Poverty Alleviation.

must be revisited, amended and given some teeth to bite. It is not enough to know how much public revenue has accrued; it should be ensured that the revenue is equitably distributed and used for public good. For instance, we often hear about petrol subsidy (if this really exists) and this and that subsidy. If equity is the goal, subsidies must redistribute income toward the truly needy. Nigeria should not follow the common Third World practice of subsidizing the costs of the needs which tend to benefit the rich more than the poor because of their larger consumption and easier access. In a system committed to equity and the social justice concepts of the International Covenants on Civil and Political Rights and the Social, Economic and Cultural Rights, only those who are unable to pay the market price should be helped. The best way to help the poor is not by such dysfunctional subsidies. It is through substantially increased scholarships, relief payments, guaranteed income and supplements paid out of appropriations made for this by the government, social service or welfare funds, and other voluntary or compulsory donations – any method which provides the poor with control over an adequate income. By having their own control over an adequate income, the poor would be able to make their own choices and be in a better position to take advantage of or create opportunities for income improvements.

There is also the need for land reforms. Recently there has been increased call for review or abrogation of the Land Use Act on the ground that it is "unduly oppressive ... Anti-people and undemocratic ... (and) directed at



depriving the people of the dividends of their God-given resources"<sup>16</sup>. By the aid of the Land Use Act, the rich has acquired most lands in the urban areas and cities in Nigeria. The poor are the rent-paying tenants. It should be stressed that distribution of land is a major determinant of the distribution of income and the incident of poverty. Countries that have combined economic growth with an equitable distribution of landholding, like Japan, Taiwan, South Korea, and Costa Rica, have been able to achieve a relatively more equitable distribution of income, while countries which have allowed the concentration of landholding to continue are suffering from a higher incidence of poverty and a more inequitable income distribution<sup>17</sup>. Right now the limitation on the extent of individual landholding is observed more in the breach. This is an area that requires close government and legislative attention. It is our firm view that if the legal and equitable issues raised herein are attended to, poverty would be on its way out.

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16 Ibid, at pp.64 and 65

17. Y. N. Kiy. "Human Rights and Socio-Economic Policy", *Journal of Human Rights Law & Practice*, Vol.2 No.3 (1992) pp 113 – 142 at 124 – 125