



EVOLUTION OF DIRECTIVE PRINCIPLES OF STATE POLICY:
A REVIEW OF THE INDIAN AND NIGERIAN CONSTITUTIONAL PERSPECTIVES

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ABSTRACT

The Directive Principles of State Policy are constitutional rights commonly made up of socio-economic and cultural rights expressed in the nature of duties, upon the state without corresponding rights to the citizens. The adoption of this concept of Directive Principles of State Policy by various countries is based on one political and or economic reason and or problem or the other hence the countries presume that the inclusion of those principles and objectives will at least assist if not in eliminating but in reducing the problems to a manageable proportion such reasons or problems might be poor management of national resources by political leaders, corruption by public officers, poverty, traditional practices that give rise to inequality and discrimination minority and ethnic imbalances et cetera. The two countries under review – India and Nigeria no doubt had their fair share of the above problems and experiences. This article therefore discusses the evolution of this principle in the constitutional development of India and Nigeria.

Keywords: State Policy, Governance, Constitutional law, India, Nigeria.

INTRODUCTION

The concept of Directive Principles was popularized by the Irish Constitution of 1937. However it is instructive to state that the idea of including certain non-justiciable

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Directive Principles for the guidance of the state was imbibed by the constitution of Spain, from which Ireland adopted it in Art. 45 of the 1937 Constitution. Irish and Spanish were predominantly Roman Catholics and these are principles and ideas that came from countries whose people are predominant Roman Catholics as the Church did not only provide a “faith” but also a “philosophy”. India copied the idea and expanded it for other countries like Nigeria to adopt. Despite this general consensus that the Directive Principles originated or was made popular by the Spanish and Irish Constitutions and Practice, some writers from India have argued that the concept of rights whether civil or political, economic, social or cultural are not exclusively of European origin. It is believed or argued that Directive Principles has its root in the concept of Dharma – which is explained to mean, that which helps the upliftment of living beings, that which ensures the welfare of living beings etc. The opinion expressed by Reddy is very instructive here and represents the common view of the proponents of the idea, I have nothing to add than to quote in estensu what he said:

It is the ancient Indian practice of laying down policies, by Dharma-Sastras, for the state. In ancient India the state used to undertake many functions which socialist, ancient and modern, are advocating, yet these went hand in hand with the enlargement of rights and freedom. There is the illusion that the correct economic thought is only of recent growth and exclusively of European origin. But the “concept of a declaration of policy to social and economic obligations of the state cannot be said to be foreign to the genius of India.”³

Notwithstanding this view or similar views it is of general acceptance that Directive Principles of State Policy as it is understood today is of western origin and was first used by Spain and Later Ireland in their Constitutions before being adopted by India in 1950. Even S. Sundara Rami Reddy conceded to this when he put a caveat in his opinion by declaring thus “in this paper the effort to trace the origin of fundamental rights and the Directive Principles to the ancient wisdom need not be construed as acceptance of the existence of the fundamental rights and the Directive Principles in ancient India as incorporated in the constitution based on western liberalism and eastern socialist thought

³ S. Sundara Rami Reddy: “Fundamentalness of Fundamental Rights and Directive Principles in the Indian Constitution”. 22(3) JILI 402-3 (1980), see also Justice M. Rama Jois, *Legal and Constitutional History of India*, 1-9, and 606-617 (Universal Law Publishing Co. Pvt. Ltd., Delhi, India, 1st edn. 1984, Subsidized Printing 2001). Rami went on to emphasize that: “Kautilya recorded specific injunctions in his Arthasastra, as that “the king shall provide the orphan, the dying, the infirm, the afflicted and the helpless with maintenance; he shall also provide subsistence to helpless expectant mothers and also the children they give birth to.” Dharma is the supreme law of laws, king of kings. It is “Raja Dharma” in which all living creatures take refuge, Yudhishtra observed. Dharma is based on innate right reason or is emanated from the conscience of the seers. “Raja Dharma” on the principles of the state can also in a way, include western concept of natural law. It is the obligations of the state to implement them. Raja Dharma in effect is the fundamental social and political principle exposing complete fulfillment of human ends as well as universal security.”

it can only be said that the protection of the fundamental rights and implementation of the directives are one of the aspects of dharma in the ancient India.”⁴ This caveat appears to be in line with the opinion expressed by Austin when he stated thus:

The Hindu outlook and the Gandhian experience would ultimately make themselves felt in the Assembly as we shall see, and would affect the content of the Directive Principles, but at no time did the Assembly attempt to base its socialist aim upon, or to draft the Directive Principles in terms of, a religious ethic exhumed from an Assembly Mythical Past. Nehru and other Assembly members at times referred to the ancient roots of Indian Socialism, but these allusions were made more for the sake of form than from historical conviction.⁵

DIRECTIVE PRINCIPLES OF STATE POLICY IN INDIA

India can be described as the “mother” of modern Directive Principles of State Policy in the constitutions of most nations today, although it copied the idea from Ireland. The Indian constitution expanded, popularized the concept both in its scope and practical application. Before independence on 15 August, 1947, the founding fathers of India saw the need of developing a constitution that will meet the yearning and aspirations of India as a new nation. The founding fathers considered the complexity of India as a nation coupled with their experiences with their neighbouring nations. They wanted a constitution which will be as accommodating as it is home grown and comprehensive, taking local circumstances into consideration. During the final stages of the British rule (Raj.), the cabinet mission of 1946 to India proposed a Constituent Assembly to draft a constitution for India as part of the process of transfer of power.⁶

In 1928, the Nehru commission comprising representatives of Indian political parties proposed constitutional reforms for India that apart from calling for dominion status for India and elections under Universal Suffrage, would guarantee rights deemed fundamental, which rights included some economic rights like education, health, living wage for workers, protection of motherhood etc., representation for religious and ethnic minorities, and limit the powers of the government. In the Indian Round Table Conferences that were held the Leaders also demanded for political, civil, economic and social rights. Also in 1931 the India National Congress adopted resolution committing itself to the defence of fundamental civil rights, as well as socioeconomic rights such as minimum wages abolition of untouchability and serfdom. In 1936 the congress leaders, in their commitment to socialism took inspiration from the constitution of the former USSR,

⁴ *ibid*

⁵ Graville Austin, *The Indian Constitution: Cornerstone of a Nation*, 76-77 (Oxford University Press, London 1966)

⁶ Fundamental Rights, Directive Principles and fundamental duties of India *available at* en.wikipedia.org/wiki/fundamental-rights.directiveprinciples and [fundamental-duties-of-india](http://en.wikipedia.org/wiki/fundamental-duties-of-india) (last visited 30th August, 2014).

which incorporated the fundamental duties of citizens as a means of collective patriotic responsibility for national interests and challenges. The Sapru Committee of 1945 also recommended for political and civil rights which should be justiciable and economic and social rights which should not be justiciable. India became eventually independent by 15th of August 1947 and the task of developing a constitution for the country was trusted upon the Constituent Assembly of India.

The Constituent Assembly which was formed was made up of majority of congress members, and others that were indirectly elected or nominated to represent diverse political backgrounds and interests including the princely states and British Provinces. Dr. Rajendra Prasad was the President while Dr. Bhimrao Ramji Ambedkar was the Chairperson of the Constitution, Drafting Committee, while Jawaharlal Nehru and Sardar Vallabhbhai Patel chaired other sub-committees.

It is import to note that by the time the Constituent Assembly completed its work in 1949 and produced what is today the 1950 constitution of India, the fundamental human rights and the Directive Principles of State Policy were all included. This shows how important the founding fathers regarded the Directive Principles of State Policy. It was not an afterthought, one can describe the fundamental human rights in chapter III and the Directive Principles of State Policy in chapter IV as twin brothers of the Indian Constitution. The Directive Principles of India was greatly influenced by the declaration of the right of man proclaimed by France after her revolution, the declaration of independence by America and the United Nations Universal Declaration of Human Rights.⁷

The Directive Principles of State Policy under the Indian Constitution has undergone one improvement or the other since 1950 both in its content and application arising from constitutional amendments to court interpretation of the Directives and Principles, out of the constitutional amendments, at least five affected the Directive Principles. The Supreme Court of India has also given landmark judgments on the application of the Directive Principles.⁸

It is on record that the fundamental duties under Art. 51A was included by the 42nd amendment Act of 1976. It will not be surprising that Nigeria and infact no country talks of Directive Principles without making reference to India as a model. As earlier adumbrated the Indian Constitution expanded and popularized Directive Principles and brought its importance to the limelight. It is the importance attached to it that made Dr. B.R. Ambedkar to take his time to explain to his fellow countrymen the need to allow the principles to remain though they were declared to be non-justiciable: "The reason why we have established in the constitution a political democracy is because we do not want to install by any means whatsoever a perpetual dictatorship of any particular body of people. While we have established political democracy, it is also the desire that we should lay down as our ideal economic democracy.

⁷. Directive Principles in India: *available at* [en.wikipedia.org/ wiki/directiveprinciplesinindia](http://en.wikipedia.org/wiki/directiveprinciplesinindia) (last visited 30th August, 2014).

⁸. *Olga Tellis V. Bombay Municipal Corporation*, AIR 1986 SC 180; *Minerva Mills V. Union of India*, AIR 1980 SC 1789 or (1980) 2 SCC 591; *M.C. Mehta V. State of Tamil Nadu*, AIR 1997 SC 699; *State of Karnataka V. Ranganatha Reddy*, AIR 1978 SC 215 etc.

We do not want merely to lay down a mechanism to enable people to come and capture power. The constitution also wishes to lay down an ideal before those who would be forming the government that ideal is economic democracy, whereby, so far as I am concerned, I understand to mean one man one value. The question is, have we got any fixed idea as to how we should bring about economic democracy? There are various ways in which people believe that economic democracy can be brought about, there are those who believe in individualism as the best form of economic democracy; there are those who believe in having a socialistic state as the best form of economic democracy; there are those who believe in the communistic idea as the most perfect form of economic democracy.

We did not want merely a parliamentary form of government to be instituted through the various mechanisms provided in the constitutions without any direction as to what our economic ideal or as to what our social order sought to be, we deliberately included the Directive Principles in our constitution, I think if the friends who are agitated over this question bear in mind what I have said just now that our object in framing the constitution is really two fold (1) to lay down the form of political democracy and (2) to lay down that our ideal is economic democracy and also to prescribe that every government whatsoever is in power, shall strive to bring about economic democracy.”⁹

The central thing revolving around the mind of the founding fathers of the Indian Constitution in adopting the Directive Principles of State Policy is the establishment of economic democracy. It will be meaningless to have a political democracy without sound economic democracy, however that economic democracy must take time to develop. Prof. Kumar in his book¹⁰ appears to have agreed with this reasoning when he declared that “Representative democracies will have no meaning without economic and social justices to the common man. It is thus social and economic justice which is required to be achieved by the incorporation of Directive Principles of State Policy.” It is thus clear that the main object behind the Directive Principles is to achieve the ideal of economic democracy.¹¹

The Directive Principles by the intention of the founding fathers are not enforceable. This however does not derogate on its importance as can be gathered from the statement of Dr. Ambedkar and this non-justiciability has influenced most countries that have towed the line of India in adopting Directive Principles of State Policy especially Nigeria. The Directive Principles are fundamental in the governance of the country and it shall be the duty of the state to apply them in law making and other executive actions.¹² The Directive Principles places an ideal before the legislature of India which show that light while they frame the policies and law, they are basically a code of conduct for the legislature and administrators of the country, they show the part to the leaders of the country which takes the country to achieve the ideal of the constitution embodied in the preamble “justice-social, economic, political, liberty equality and fraternity.” No wonder the Directive Principles in India has been referred to as the socio-

⁹. The Constituent Assembly Debates, Vol. VII, 494-495, 1948.

¹⁰. Narender Kumar, *Constitutional Law of India*, 479, (Allahabad Law Agency, Faridabad, Haryana, India, 8th edn. 2011, 2014 reprint).

¹¹. Narender Kumar, Id at 479.

¹². The Constitution of India, art. 37.

economic Magna Carta.¹³ The object of the Directive Principles of State Policy under the Indian Constitution was to create a welfare state based on economic democracy which implies that:

- a) the state must play a major part in the wellbeing of the citizen;
- b) citizens must not vote based on financial inducement because of their financial predicament;
- c) every citizen must have equal opportunity;
- d) wealth of the nation must be equitably distributed
- e) care must be given to those who are in need.

In the case of *State of Karnataka v. Ranganatha Reddy*¹⁴ The Supreme Court of India called the Directive Principle the spiritual essence of the constitution” and that “it must receive a sweeping signification, being our socio-economic Magna Carta.” The Directive Principles in India is special and peculiar and a real model, it did not only adopt foreign principles alone in the nature of United States Bill of Right France Declaration of the Right of man, Universal Declaration of Human Right but also included local ideas as manifested in the Gandhian Principles like the Panchayats, encouragement of cottage industries, prohibition of slaughter and protection of cow et cetera. The wisdom of the founding fathers of India must not only be respected but must be immortalized in the adoption of Directive Principles of State Policy whether justiciable or not.

DIRECTIVE PRINCIPLES OF STATE POLICY IN NIGERIA

Nigeria become an independent state on the 1st of October 1960, when the Union Jack was lowered in favour of Green White Green. The British colonial masters handed over a parliamentary system of government at independence to Nigeria as could be seen in the Independence constitution of 1960.¹⁵ There was to be a Prime Minister to be appointed by the Governor-General who was the queen’s representative in Nigeria, from amongst the members of the House of Representatives which was the lower chambers between the two chambers of Senate and House of Representatives established by the Constitution. One prominent feature of the said Constitution was the introduction of civil and political rights otherwise called Fundamental Human Rights.

The implication of the adoption of Fundamental Human Rights by the 1960 constitution is that Nigerian has accepted to be guided by the concept of the rule of law, there cannot be rule of law without fundamental rights guaranteed in the constitution whether the constitution is written or unwritten. The inclusion of fundamental rights in the constitution ... is in accordance with the trend of modern democratic thought, the idea being to preserve that which is an indispensable condition of a free society. The aim of having a declaration of fundamental rights is that certain elementary rights, such as, right to life, liberty, freedom of speech, freedom of faith and so on, should be regarded as

¹³. A David Ambrose, “Directive Principles of State Policy and Distribution of Material Resources with Special Reference to Natural Resources – Recent Trends”, 55(1), JILI, 2 (2013).

¹⁴. AIR 1988, SC 215, para 56.

¹⁵. See Promulgation of Independence Constitution order in Council 1960 made by her Imperial Majesty in exercise of her power under the Foreign Jurisdiction Act, 1890.

inviolable under all conditions and that the shifting majority in legislature of the country should not have a free hand in interfering with these fundamental rights.¹⁶

The 1960 constitution [i.e. the Independence Constitution] however did not make provisions for Economic and Socio-Cultural Rights, otherwise called Directive Principles in a broader perspective. The 1960 constitution, “it seems, was accepted as a provisional document to be amended by Nigerians as soon as they could”¹⁷ and perhaps when the opportunity comes they will not hesitate to include Directive Principles. As stated by CAJ Chinwo,¹⁸ “the opportunity for its replacement came soon after with the political crises that erupted in Western Region between the leader of Action Group and of the opposition in the House of Representative and his Deputy Party Leader and Successor as premier of Western Region. The crises led, among others, to a declaration of state of Emergency in the Western Region by the Federal Government, dissolution of the regional parliament and passing of vote of no confidence in a very ‘unparliamentary’ atmosphere. The various litigations that arose from the crisis and the decisions of the Privy Council, which did not favour the position, of the Federal government, seemed to have bestirred the Nigerian Parliament on the need for cutting off the apron string tying the nation’s political life to London. In 1963 the political colonial yoke was finally taken off by the promulgation of the Republican Constitution.”

The 1963 Republican Constitution which declared Nigeria a Republican Nation was substantially the same with the 1960 Independence constitution, besides retaining the parliamentary system, it replaced the office of Governor General with a ceremonial president who will be the Commander-In-Chief of the Nigerian Armed Forces and will be elected by a joint session of the Federal Parliament i.e. the Senate and House of Representatives. Not surprisingly, the 1963 constitution did not also provide for Directive Principles of State Policy. It only repeated the fundamental rights mentioned in the 1960 constitution, perhaps the parliament then or rather the founding fathers did not see the need for putting economic and socio-cultural rights in the constitution in whatever manner or name called, or rather they were preoccupied with giving Nigerians Civil and Political Rights as have been declared by the United Nation’s Charter and the Universal Declaration of Human Rights or better perhaps they felt that the Civil and Political Rights were more important to consider at that time. Between 1963 and January 15th 1966 Nigerian Civil or Democratic Government passed through a lot of turmoil, that no leader thought of further constitutional development than how to outsmart each other in the power arena.

On January 15th 1966 the country experienced the first military coup and from that time it was goodbye to democracy as the country passed from one coup to another counter coup until 1979 when it finally returned back to a Democratic Government.

When the Military Government under the Government of Murtala Mohammed/Olusegun Obasanjo decided to return back political power to the civilian in

¹⁶ J.N. Pandey, *Constitutional Law of India*, 53 (Central Law Agency, Allahabad, India, 51st edn. 2014).

¹⁷ C.A.J., Chinwo, *Principles and Practice of Constitutional Law in Nigeria*, Vol. I, 270 (Davis Printing & Packaging Co. Ltd. Port Har Court, Nigeria, 2006).

¹⁸ C.A.J. Chinwo, Id at 272, see also the case of Adegbenro v. Akintola (1963) AC 614, Akintola v. Aderemi (1962), All NLR 447.

1979, a Constitution Drafting Committee [hereinafter called the CDC] was set up. The committee was made up of 49 members headed by Late Chief Rotimi Williams [SAN].¹⁹ One of the major terms of reference of that Committee was to fashion out a new political ideology or structure and constitution for the country.²⁰ The CDC completed their work and among all the recommendations and innovations of the CDC was the introduction of the Presidential System of Government which was borrowed from the United States of America and then the adoption and inclusion of Directive Principles of State Policy = captioned = Fundamental Objectives and Directive Principles of State Policy, after their ideological voyage to Indian constitution.

The committee also recommended that the Fundamental Objectives and Directive Principles of State Policy would not be justiciable unlike the Fundamental Human Rights which of course was still retained in the proposed 1979 constitution. These major recommendations *inter alia*, were accepted. This is how Directive Principles of State Policy came to be adopted by Nigeria under its constitution for the first time. On October 1st 1979, a new democratic government was inaugurated under the Presidency of Alhaji Shehu Shagari under the 1979 Constitution.

This Democratic experiment could not last. Thus barely four years and three months, the Army struck again with another coup under the leadership of General Mohammadu Buhari, thus bringing to an untimely death the democratic government of Shehu Shagari.

The Military returned to power and governance on the 31st of December 1983 and remained in power until the 29th of May 1999, when General Abdusalam Abubakar returned Nigeria to a democratic government that is still being experimented and still as it is commonly said in its nascent stage. General Abdusalam Abubakar who was the last military head of state²¹ in a bid to return Nigeria to a democratic government having seen that internationally military government has become very much unfashionable set up a committee named Constitution Debate Coordinating Committee whose responsibility amongst others was to coordinate the views of Nigerians on the kind of political ideology and arrangement to be adopted. This committee was headed by Hon. Justice Niki Tobi [then a justice of the court of Appeal] and a Constitutional law guru. The Constitution Debates Coordinating Committee did not waste much time in concluding her work. The CDCC ended up adopting the 1979 constitution with minor amendments and additions where necessary to reflect the recommendations of the 1995 Constitutional Conference. It is worthy of note that as observed by Okon²² that: "... The brevity of the reports of the

¹⁹. Note that the committee was originally made up of 50 members but one of the nominees – Late Obafemi Awolowo declined.

²⁰. We will discuss in details on the work of the committee as it affects the adoption and inclusion of Directive Principles in the 1979 Constitution in details later in this work.

²¹. Note that between 1983 there were series of coups and counter-coups – on the 31st December 1983, there was a coup that sacked Shagari's civil rule, headed by Gen. Mohammadu Buhari, on the 27th of August 1985, another coup led by General Ibrahim Babangida, then Nov. 17, General Sani Abacha took over from the so-called interim National Government of Ernest Shonekan, then General Abdusalam Abubakar took over on the 8th of June 1998 after the sudden death of General Sani Abacha.

²². E.E. Okon, "The Environmental Perspective in the 1999 Nigerian Constitution" 38(1-4) *Journal of Constitutional and Parliamentary Studies*, 57, (2004).

1995 constitutional conference and the CDCC 1998 on Fundamental Objectives and Directive Principles shows the level of importance attached to the concept.”

The recommendations of the Constitution Debate Coordinating Committee were quickly accepted by the Abdusalam Abubakar’s government and consequently produced the 1999 constitution of Nigeria which did not only include all the items in chapter II of the 1979 constitution dealing with Fundamental Objectives and Directive Principles of State Policy but also added two more major items namely environmental objectives in section 20 and citizens duties in section 24 of the 1999 Constitution just as you have the fundamental duties of the citizens in the India Constitution as inserted by the 42nd Amendment Act 1976.²³ This is how the 1999 constitution of Nigeria came to adopt Directive Principles in chapter II and it is called Fundamental objectives and Directive Principles of State Policy. It is noteworthy to state that Nigeria modeled its Directive Principles to that of India, however the India concept appears to be more detailed. We may however state that although Nigeria borrowed from India, that does not mean that all the principles and objectives are Indian or foreign ideas or adaptation of principles of recent western political or social philosophy. “In fact, a number of these principles are entirely Nigerian, home grown, and autochthonous. Examples of these could be seen in the sections dealing with foreign policy objectives and directives on Nigerian culture.”²⁴ The non-justiciability principles was also retained. Thus section 6(6)(c) provides as follows:

The judicial powers vested in accordance with the foregoing provisions of this section – (c) shall not, except as otherwise provided in 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 constitution.

The Fundamental Objectives and Directive Principles of State Policy under the 1999 constitution are grouped as follows: (a) Obligation of Government (b) Government and the People, (c) Political Objectives, (d) Economic Objectives (e) Social Objectives, (f) Educational, (g) Foreign policy (h) Environmental (i) Nigerian Culture (j) Mass Media, (k) National Ethics and (l) Duties of the Citizens . These we will discussed later. This non-justiciability concept may not be absolute. In the opinion of the Supreme court in the case of the *Federal Republic of Nigeria v. Alhaji Anache & Ors. In Re Olafisoye*²⁵ “The non-justiciability provisions of section 6(6)(c) of the constitution is neither total nor sacrosanct as the sub-section 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

²³. The Constitution of India, Art. 51A, this article was inserted by the Constitution (42nd Amendment) Act, 1976, sec 11.

²⁴. E.E. Okon, *supra* note 96 at 57.

²⁵. (2004) ALLFWLR (Pt. 198) 1106 at 1153 Per Justice Niki Tobi.

will be interpreted by the courts.” The Court held that chapter II can be justiciable under two situations:

- a) where the constitution makes another provision on any of the subject in the chapter, which being outside the chapter is justiciable;
- b) where the National Assembly makes any legislation making any of the subjects of the chapter the subject of such an Act and thus justiciable, since the National Assembly cannot by any law oust the jurisdiction of the court.²⁶

Thus, where the National Assembly or Perhaps a State House of Assembly in the process of exercising her powers to make laws under the constitution brings any provisions in chapter II within the scope of judicial scrutiny that particular provision of chapter II becomes justiciable. The Nigerian Supreme Court case of *Attorney General of Ondo State v. Attorney General of the Federation and Ors.*²⁷ upheld the constitutionality of the Independent Corrupt Practices Commission [ICPC] Act, whose validity was challenged by the Government of Ondo state. It held that section 15(5) of the 1999 constitution which mandates the state to abolish all corrupt practices and abuse of power is justiciable when read with item 60(a) of the second schedule of the 1999 constitution which empowers National Assembly to make laws with respect to the establishment and regulation of National Authorities to promote and enforce observance of chapter II.²⁸ It will be appropriate to state that the justiciability of chapter II will definitely depend on the wisdom, dynamism, consciousness and industry of the legislature in its efforts to legislate to promote the ideals of that chapter.

The concept of non-justiciability connotes that the provisions of the chapter cannot be a subject of litigation to enforce the rights created therein by individuals or citizens of the country. Notwithstanding the non-justiciability of the objectives and principles they are still of immense importance in our constitutional jurisprudence and political arrangement. The constitution creates a political and social contract between the people and leaders. A country cannot thrive without good management. The incorporation of fundamental objectives and Directive Principles of State Policy in the constitution embodies the philosophy which emanated from the new contract.²⁹ The importance of Fundamental Objectives and Directive Principles could also be ascertained from the statement of Constitution Drafting Committee 1976 when it declared thus:

If the fundamental objectives and Directive Principles are enshrined in the constitution, then this may make them appear

²⁶. CAJ Chinwo, *supra* note 91 at 299, see also *The Nigerian Constitution 1999* s. 4(8).

²⁷. (2002) 9 NWLR (Pt 772) 222 or (2002) FWLR (Pt. 111) 1972

²⁸. Ceazar Onye Kachi Wisdom Duru, “The justiciability of the Fundamental Objectives and Directive Principles of State Policy under the Nigerian Law,” *available at* <http://ssrn.com/abstract=214361> (last visited 26th August, 2014).

²⁹. E.E. Okon *supra* note 96 at 59. See also B.O. Okere, “Fundamental Objectives and Directive Principles of State Policy under the Nigerian Constitution,” 3 *Nigerian Judicial Review*, 74 (1979-88), or 32(1) *International and Comparative Law Quarterly*, 214-228 (1983) also *available at* <http://www.jstor.org/stable/759474> (last visited 19/6/15)

less of a political slogan and invest them with the quality of constitutional, albeit non-justiciable norms, thereby making it easier for political leaders and all public functionaries to establish and show the desired identification with them.”³⁰

The Fundamental Objectives and Directive Principles surely are not mere pious declarations.

CONCLUSION

It would appear that the need for Nations to incorporate fundamental objectives and Directive Principles into their constitution either as part of the fundamental rights or as social economic and cultural rights cannot be emphasized. Directive Principles of State Policy has come to stay from a humble beginning in Spain to occupy a major position in India, Nigeria and other countries. One cannot therefore, isolate fundamental rights from Directive Principles.

The fundamental rights and the Directive Principles (inclusive of the socio-economic rights) are considered as twin brothers though they may not be identical in their physical appearances but they are inseparable in character and functions. The Vienna conference had declared that human rights are universal, indivisible, interdependent and interrelated and should be treated fairly and equally.³¹ The Maastricht Guidelines on the violation of Economic, social and cultural rights also declared that all human rights are indivisible, interdependent, interrelated and of equal importance for human dignity,³² and therefore states parties have equal obligation to respect, protect and fulfill those rights.

From the foregoing review, it could be gathered that both India and Nigeria adopted a bifurcated regime of human rights following the footsteps of international human rights discourse viz. the civil and political rights otherwise called fundamental rights on the one hand which are libertarian in character like right to life, dignity, personal liberty, equality, freedom of speech and expression, freedom of press, freedom of association and assembly, freedom from discrimination etc. which are expressly declared as enforceable,³³ and the economic, social and cultural rights contained in the Directive Principles of State Policy which include rights to work or employment, education, means of livelihood, health and housing etc. which are expressly declared as unenforceable in the court of law on the other hand.³⁴ The classification in the

³⁰. Federal Republic of Nigeria, Report of the Constitutional Drafting Committee containing the Draft Constitution, Vol. I, p. VI (Federal Ministry of Information, Lagos, Nigeria 1976/77).

³¹. Vienna Conference on Human Rights 1993 held between 14th and 25th of June 1993 *available at* en.m.wikipedia.org/wiki/world-conf... (last visited 06/06/2015).

³². The Maastricht Guidelines on the violations of Economic, Social and Cultural Rights – Guideline No. 4, Annexed to Handbook for National Human Rights Institutions – on Economic, Social and Cultural Rights, United Nations, New York and Geneva 2005, *available at* www.ohchr.org/documents/publications/training12en.pdf (last visited 05.05.2015)

³³. The Constitution of India Part III and The Constitution of Nigeria 1999 Chapter IV.

³⁴. See Part IV of Indian Constitution, and Chapter II of the 1999 Constitution of Nigeria, also. Jayna Kothari, “Social Rights and the Indian Constitution” *available at* <http://www.go.warwick.ac.uk/elj/lgd/2004-2/kothari> (last visited 20.05.2015), Dakas C.J.

Constitutions of India and Nigeria affected their relative importance as people perceive the non-enforceability as a badge of inferiority of the Directive Principle or better put the economic and social rights, to the civil and political rights. This wide gap between the reception and enforcement of economic, social and cultural rights on the one hand, and civil and political rights on the other, ensures that the former are treated less seriously than the latter. However, economic, social and cultural rights have far-reaching implications for the lives and livelihood of millions of poor and powerless people in Nigeria and India.³⁵ The provisions of Directive Principles of State Policy in the two constitutions have certain basic similarities. For example:

- a) The Directive Principles in the constitutions of the two countries are declared as non-justiciable.³⁶ Thus the normative basis for their non-justiciability are the constitutions.
- b) The two constitutions declare the Directives as Fundamental.³⁷
- c) Both Constitutions mandate the various organs of the state to apply and observe the provisions of the chapter/part of the constitutions relating to Directive Principles of State Policy,³⁸ in making laws and other policy decisions.
- d) The Directive Principles in the two constitutions are geared toward establishing welfare state and enhancing social justice.³⁹
- e) It is also the intendment of the Directive Principles in the two constitutions to ensure that there is equal opportunities for citizens, equality of status and social justice.⁴⁰
- f) The Directive Principles in the two Constitutions are geared towards ensuring that material resources of the country are harnessed and distributed as best as possible to serve the common good.⁴¹
- g) Besides creating the relationship between the Government and the citizens, it forms the basis of socio-economic rights in the Constitution of India and Nigeria

Dakas "Judicial reform of the legal framework for Human Rights Litigation in Nigeria Novelties and Perplexities" in Azinge Epiphany and Dakas C.J. Dakas (eds.) *Judicial Reform and Transformation in Nigeria* 335-354 (NIALS Lagoos, Nigeria, 2012)

³⁵. Stanley Ibe, "Implementing economic, social and cultural rights in Nigeria: Challenges and opportunities" 10 *African Human Rights Law Journal* 197-211 (2010) *available at* www.ahrlj.up.ac.za/ibe-s-2 (last visited 15.04.2015), also Mahendra P. Singh "The Statics and the Dynamics of the Fundamental Rights and the Directive Principles – A Human Rights Perspective" 5 *SCC (Journal)* 1 (2003), *available at* www.ebc.india.com/lawyer/articles/2003V5a4.htm. (last visited 16.05.2015).

³⁶. The Constitution of India art. 37; and s. 6(6)(c) of the 1999 Constitution of Nigeria.

³⁷. The Constitution of India art. 37; and the Title to Chapter II of the Nigerian Constitution.

³⁸. The Constitution of India art. 37; and The Constitution of Nigeria 1999, s. 13.

³⁹. The Constitution of India arts. 38, 39, 41, 42; and The Constitution of Nigeria 1999; ss. 14, 16, 17.

⁴⁰. The Constitution of India arts. 38, 39; and The Constitution of Nigeria 1999, s. 16(1)(b).

⁴¹. The Constitution of India art. 39(b); The Constitution of Nigerian 1999, s. 16(2)(b), 17(2)(d).

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