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THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA 1999 (AS AMENDED) AND THE IMPERATIVE OF COMBATING ECONOMIC AND FINANCIAL CRIMES.



R. O. OLAGUNJU*

&

A. A. OWOADE**

Abstract

Economic and financial crimes refer generally to money related offences. These crimes have eaten deep into the Nigerian fabric and have become global phenomena with grave consequences. Criminal dealings in relation to economic or finance of a nation (such as embezzlement) were recorded to have stemmed from England sometimes before 1473. Although the wave of the so-called brand of crime (economic and financial crimes) might have since impacted on Nigeria, the oil-boom era in the country (1970s-1980s) seems to be figured out as the time of prominence for indulgence of Nigerians in economic and financial crimes. Consequently, Nigeria joined other affected countries of the world in the areas of enacting several legislations and formulating various policies to curb these pervasive crimes as well as other corrupt practices. Ranging from the numerous provisions of the current grundnorm in the country on the anti-graft war to similar provisions in other national legislations such as the Criminal Code act, the Penal Code Law, Code of Conduct Bureau and Tribunal Act, Advance Fee Fraud and other Related Offences Act, Money Laundering (Prohibition) Act, the ICPC and the EFCC Acts, the point is clear that successive governments in the country have not been paying leap service to the imperative of combatting these crimes. The available legislations in this regard reflect a kind of monotony which requires some sort of streamlining. Thus, the concern in the write-up is mainly to look through some of the relevant provisions in the grundnorm and see to what extent can that alone be constitutive of an holistic measure against economic and financial crimes. The benefit to be reaped in the exercise concerns ease of reference and doing away with avoidable bulky materials.

Introduction

Perpetration of economic and financial crimes is antithetical to a robust economic plan and projection of any society. The ill effects of the crimes on any can never be over

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emphasized. This explains why Nigeria has subscribed to the anti-graft war with all strength and vigor. The monotonous legislations and policies abound are all for this sake.

The mindset in this paper is to go through the anti-graft provisions of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) alone, with a view to seeing whether heeding the dictates therein is enough to impact positively on our collective effort to combat economic and financial crimes. However, sight shall not be lost of the long list of several anti-graft legislations and policies in the country beginning from as far back as the second military regime of General Yakubu Gowon up till the present moment.

Nigerian Legislative Measures of Combating Economic and Financial Crimes

Almost every country throughout the globe has woken up to face the challenges of economic crime and corruption in her domain. The intensity of the war against this menace in developing countries is even expected to be more imperatively high.¹ This is because of the enormous threat which economic crime and corruption often pose to the economic development of the developing countries. Nigeria is in the group of these countries and has thus subscribed to this worthy fight with all seriousness. This, among others, has taken the shape of enacting several legislations and formulating various policies all in a bid to curb economic and financial crimes as well as other corrupt practices.

For instance, the second military regime in Nigeria under General Yakubu Gowon promulgated the *Public Officer Investigation of Assets Decree*,² which empowered the Head of State to require public officers to declare their assets. In addition, tribunals were set up with powers to investigate corrupt enrichment by public officers.³ In 1975, General Muritala Muhammed also made several efforts to combat corruption. He set up an *Asset Investigation Panel* to investigate the assets of state governors, federal commissioners and high ranking officials. The *Defunct Corrupt Practices (Decree) Act*,⁴ was promulgated to extend the scope of the regime's anti-corruption measures to officials of private sector.⁵

Further, Buhari/Idiagbon's regime promulgated the *Recovery of Public Property (Special Military Tribunal) Act* of 1984 (as amended). The military under this regime believed that draconian anti-corruption measures including long sentences and forfeiture of assets

¹Obayelu A.E., 'Effects of Corruption and Economic Reforms and Growth and Development; Lessons From Nigeria' Paper Presented at African Economic Conference, 2007, p.18

²No. 5 of 1966 (repealed) This particular decree and a host of others have suffered repeal, but those others not repealed are now contained in the Laws of the Federation of Nigeria as 'Acts'.

³Okechukwu E., 'A Critique of the Activities of EFCC vis-à-vis the 1999 Constitution' in *Ife Juris Review: A Journal of Contemporary Legal and Allied Issues*, Vol. 3, Part 1, 2006, p. 104

⁴No. 38 of 1975

⁵*Ibid*

would re-assure the public of its commitment to fight corruption. General Abacha launched a War Against Indiscipline (WAI). General Abacha also promulgated various similar policies⁶ in the fight against corruption in Nigeria. President Shehu Shagari⁷ and President Umar Yar'adua⁸ have made significant contribution to the fight against this enormous menace. Having taken a preliminary look on the various efforts of successive governments against corruption in Nigeria, it is imperative to give a list of Nigerian laws that have been enacted or adopted in the country to checkmate the spread of corruption. These are:

1. The Constitution of the Federal Republic of Nigeria, 1999 (C23) LFN, 2004
2. The Criminal Code Act, (Cap. C 38) LFN, 2004
3. The Penal Code Law, (Cap P 3) LFN, 2004
4. Corrupt Practices (Decree No. 38) of 1975
5. Banks and Other Financial Institutions Act (Cap. B 3) LFN, 1991
6. Code of Conduct Bureau and Tribunal Act, (Cap. C 15) LFN, 1999
7. Advance Fee Fraud and other Related Offences Act, (Cap. P. 33) LFN, 1991
8. Money Laundering (Prohibition) Act, Vol. II, 2011¹¹
9. Public Accounts Implementation Tribunal Act, (Cap. P. 36) LFN, 1999
10. Public Procurement Act, No. 14 of 2007
11. Fiscal Responsibility Act, No. 31 of 2007
12. Investigation of Assets (Public Officers and Other Persons) Decree, 1994
13. Public Officers (Special Provisions) Decree, 1976
14. Miscellaneous Offences Act, 1983
15. Recovery of Public Property Decree, 1984
16. Bank Employee (Declaration of Assets) Act, 1986.
17. Promulgation of the Mutual Assistance in Criminal Matters Act, 1992
18. National Drug Law Enforcement Agency (NDLEA) Act, 1990.

⁶For instance, the Structural Adjustment Programme (SAP) and the War Against Corruption (WAIC) were introduced by Babangida and Abacha respectively during their anti corruption policies.

⁷Shagari's contribution on this was his 'National Ethical Revolution'

⁸Yaradua's contribution was his 'Policy of Zero Tolerance for Corruption'

⁹The New Code of Conduct ... Act, Cap C 15, now replaces the earlier Code of Conduct and Ethics Tribunal Decree of 1975.

¹⁰This is the latest Act on the crime. It repeals and replaces both the Code of Conduct and Ethics Tribunal Decree of 1975 and the Code of Conduct and Ethics Act of 1999.

19. Public Complaints Commission Act, (Cap. P 37), LFN, 2004
20. Recovery of Public Property (Special Military Tribunal) Act, (Cap.R4) LFN, 2004.
21. Failed Banks (Recovery of Debts and Financial Malpractices in Banks) Act, (Cap.F 2) LFN, 2004.¹⁴
22. Foreign Exchange (Monitoring and Miscellaneous Provisions) Act, 1995
23. Central Bank of Nigeria Act, (Cap.C4) LFN, 2004
24. Securities and Exchange Commission's Anti-Money Laundering/Combating Financing of Terrorism (AML/CFT) Compliance Manual for Capital Market Operation, No. 1 of 2011 (which replaces that of 2010).
25. Guidelines for Anti-money Laundering/Combating Finance of Terrorism for the Insurance Industry in Nigeria, No. 5 of 2011.
26. Economic and Financial Crimes Commission (Enforcement) Regulations, No. 39 of 2011.
27. Asset Management Corporation of Nigeria Act, No. 4 of 2011.
28. Financial Reporting Council of Nigeria Act, No. 6 of 2011.
29. Terrorism (Prevention) Act, No. 10 of 2011.
30. Terrorism (Freezing of International Terrorists Funds and other Related Measures) Regulation No. 29 of 2011.
31. Technical Unit on Governance and Anti-Corruption Reforms (TUGAR).¹⁵
32. Nigerian Extractive Industries Transparency Initiative Act, 2007.¹⁶
33. The Freedom of Information Act, 2011
34. The Independent Corrupt Practices and Other Related Offences (ICPC) Act, (Cap. C31), LFN, 2004.
35. The Economic and Financial Crimes Commission (EFCC) Act, (Cap. E1), LFN, 2004.

By and large, it can be said that Nigeria has put in a considerably fair and impressive legislative efforts at the fight against the menace of economic and financial crimes. The long list of some of these enactments paraded above is a proof of this assertion. Infact, beyond the above list, there exists an avalanche of other subsidiary legislations enacted from time to time by the National Assembly to forestall the spread of economic crime and corruption. For instance, of about 194 Acts which the National Assembly passed

¹⁴This repeals and replaces the 1994 Act on the issue as well as the Tribunals (Certain Consequential Amendments, etc) Act, No. 62 of 1999 also on the issue.

¹⁵This is an institution dedicated to monitoring the 'ongoing anti-corruption and governance initiatives, evaluate both the structures and their output for impact, access public feedback, and generate empirical data which will fit into the policy framework and enable reforms'. See TUGAR, "Why TUGAR", <http://www.tugar.org.ng/why-tugar>, accessed on March 26, 2013.

¹⁶This is a national version of the global initiative, Extractive Industries Transparency Agency (EITI) whose aim is to promote due process and transparency in extractive revenues paid to and received by governments. See: http://www.neiti.org.ng/pages/about_neiti, accessed Dec. 2nd, 2014

between the years 1999 and 2012,¹⁷ the anti-corruption laws rank eighth in terms of the highest volume of concentrated legislations per item of 25 classified legislations.¹⁸

Economic and Financial Crimes and the 1999 Constitution

It should be noted that provisions in the constitution on economic and financial crimes are not the same as punitive inhibiting measures inflicted on culprits upon being found guilty of any of the economic and financial crimes. Rather, these constitutional provisions against economic crimes tend to be more of prevention measures as opposed to curative as far as the crimes are concerned. This is because as the underlying focus therein is geared towards bettering the welfare of citizens with a view to removing their urge for involvement in economic and financial crimes.

The typology of the preventive measures as explained above may also take the form of creating certain institutions with watchful eyes and investigative mandate on the source of wealth of selected individuals. The above twin aspects of the type two measures of curbing economic and financial crimes constitute the bulk of the anti corruption provisions in the Nigeria Constitution. To a great extent, the researchers have conviction in the workability and effectiveness of this measure. This, however, must be understood to be so only on one condition, existence of political will on the part of the administration to apply the content of such provisions to the letter. Having said this, it is now apt to consider few of the provisions of the Nigerian Constitution on the measures under reference in curbing economic and financial crimes.

Item 1 (a) (i) of the Fourth schedule to the Constitution charges all local government councils to always consider and recommend, to a state commission on economic planning or any similar body, useful proposals on the economic development of the state, particularly, in so far as the areas of authority of the council and of the state are affected.

In the fifth schedule of the same Constitution, items 1 to 14¹⁹ of part 2 thereof are instructive on a number of preventive measures for public officers²⁰ against economic and financial crimes.

¹⁷National Assembly Website: <www.nassnig.org/nass/votesenate.php> accessed on Wednesday, December 10th, 2014

¹⁸The following classifications show the number of legislations between 1999 – 2012 per subject. Government Agencies/Commissions 45; Fiscal – 34; Appropriation – 17; Acts – 16; professional Bodies 12; International Cooperation/Treaties – 12; Electoral – 10; Labour & Wages – 9; Anti-corruption – 8; Judiciary – 6; Energy – 6; Human Rights etc. – 5; Maritime – 4; Education – 3; Insurance – 3; Investment – 3; Constitution – 3; National Assembly and Law Making – 2; Protocols – 1; Environment – 1; Aviation – 1; Terrorism – 1; Ganing – 1; Communication – 1. See: Akinrinmade G.O., Osifeso B.Y. & Ors, 'An Assessment of the Role of the National Assembly' ... pp. 460 – 461.

¹⁹Item 1 restricts public officer from allowing conflict of personal interest with his duties.

Item 2 Prohibits collection of double emoluments by a public officer in two public offices except where his employment is not on full time basis.

Still on the anti-corruption provisions of the Constitution, ss. 14, 15, 16 and 17 of the said Constitution are of paramount relevance. For s. 4,²¹ the gist of the relevant provisions therein concerns the National Assembly's powers to make laws for the good government of the Federation or any part thereof with respect to census, including the establishment

- Item 3 prohibits maintenance or operation of foreign bank account by the President or his Vice, Governor or his Deputy, Minister, Commissioners etc.
 - Item 4 bans a retired public servant from receiving any other remuneration from public funds in addition to his pension and the emolument of such one remunerative position he may hold after retirement like Chairman, Director or employee of a government owned or controlled company or of any public authority.
 - Item 5 prohibits retired public officers as President, his Vice, Governor, his Deputy and the Chief Justice of Nigeria from service or employment in foreign companies or foreign enterprises where they have held offices to which item 4 above applies.
 - Item 6 prohibits public officer from asking for or accepting gifts on account of any of his duties or even at ceremonial occasions except gifts and benefits which, in such situations, come from friends and relatives and which are treated as gifts on behalf of the appropriate institution represented by the public officer.
 - Item 7 restricts the President, his Vice, Governor, His Deputy, Minister, Commissioner, Permanent Secretary or head of any public corporation, University etc from accepting loans except from government or its agencies bank or other financial institutions recognized by law.
 - Item 8 disallows anybody from offering inducement or bribe of whatever form for any public officer in the granting of whatever favour which already falls within the duty of such public officer.
 - Item 9 prohibits abuse of power by any public officer as a way of preserving the rights of others.
 - Item 10 illegalizes membership of a public officer in a society whose activities run counter to the dignity of the office of such a public officer.
 - Items 11 to 13 concern the requirement and the specified period of submission of the assets declaration form by every public officer to the Code of conduct Bureau
 - Item 14 allows exemption of members of legislative houses from the provisions of item 4 and that the National Assembly may by law exempt any cadre of public officers from the provisions of paragraphs 10 and 11 of this code of conduct where it is clear to it that their position is below the rank considered appropriate for the application of those provisions.
- ²⁰ Items 1 to 16 of part 2 of the fifth schedule to the Constitution gives the following as being constitutive of the phrase "public officers" for the purposes of the Code of Conduct. They are; The President, His Vice, The President and Deputy President of the Senate, Speaker of the House of Representatives and his Deputy, Speakers and Deputy Speakers of Houses of Assembly of States and all members and staff of legislative houses. Others are Governors and their Deputies, Chief Justice of Nigeria and other justices of the supreme court, President and Justices of the Court of Appeal, all other judicial officers and all staff of courts of law. Still in the list are the Attorney General of the Federation and of each state, Ministers, Commissioners, Chief of Defence staff, Army staff, Naval Staff, Air Staff and all members of the armed forces of the federation. Inspector-General of Police, DIGs and all members of the Nigerian Police Force and other government security agencies established by law, Secretary to the Government of the Federation, Head of Civil Service, Permanent Secretaries, Directors-General, Ambassadors, High Commissioners and other officers of Nigerian Missions abroad. Others are: Chairman, members and staff of Code of Conduct Bureau and Code of Conduct Tribunal, Chairman, members and Staff of Local Government Councils, Chairman and members of the Boards or other Government Bodies, all staff of Universities, Colleges and institutions owned and financed by the federal state government or local governments councils. The last in the list are the Chairman, members and staff of permanent commissions or councils appointed on full time basis.
- ²¹ Sub sections 2, 3 and 4 thereof

and maintenance of machinery for continuous and universal registration of births and deaths throughout Nigeria.²²

With this, it is clear that welfare of the entire Nigerian populace, being the main target behind census exercise, is what the Nigerian Government aims at by the content of the above provision. Through this, adequate provision for the reasonable needs of the numerical strength of the available population in the country at any particular time shall be catered for, thereby defeating the reason for involvement by some in economic crime for sustenance.

Aside the above, issues bordering on labour, conditions, safety and welfare of labour, including the need to prescribe a national minimum wage for the federation or any part thereof²³ form part of the National Assembly's domain of law making to bring about comfort for people and to discourage them from criminality.

Still in line with the above constitutional provisions, the National Assembly has power to make laws on the establishment and regulation of authorities for the Federation which shall see to the promotion and enforcement of the observance of those aspects of the fundamental objectives and directive principles²⁴ of state policy having to do with the overall welfare of the citizenry.²⁵ Section 14 (1),²⁶ (2) (b)²⁷ and S. 15 (3) (a),²⁸ (5),²⁹ s.16³⁰ and S. 17³¹ of this Constitution are, among others, relevant in this respect. Collectively, the main gist of these various provisions portrays the need to ensure that maximum welfare of the populace is secured.

²²See these in the exclusive legislative list set out in item 8 part 1 of the second schedule to the Constitution (1999, as amended).

²³See the exclusive legislative list, item 34, part 1, second schedule, 1999 Constitution, as amended

²⁴Provisions of fundamental objectives and Directive Principles are one of the innovations of the 1979 Constitution in its chapter II. The same chapter is retained in the current 1999 Constitution. According to the Constitutional Drafting Committee, Fundamental objectives mean the identification of the ultimate objectives of the nation, while the directive principles of the state policy indicate the paths which lead to those objectives. On this, see the report of the Constitutional Drafting Committee, (Ministry of Information, Vol. II, 1978) p. v

²⁵See: Item 60(a), part 1, 2nd schedule, 1999 Constitution.

²⁶S. 14 (1) provides that the Federal Republic of Nigeria shall be based on the principles of social justice among others.

²⁷S. 14 (2) (b) declares welfare of the people as the primary purpose of government.

²⁸S. 15 (3) (a) charges the Nigerian state to provide adequate facilities for people.

²⁹S. 15 (5) charges the state to abolish all corrupt practices and abuse of power.

³⁰S. 16 (1) (a – d) and S. 16 (2) (a – d) contain numerous provisions on the promotion of efficient, dynamic and self-reliant economy which can guarantee maximum welfare, freedom and happiness of every citizen. The provisions here also guarantee suitable and adequate shelter, suitable and adequate food, national minimum living wage, old age care, unemployment and sick benefits as well as welfare of the disabled. Concentration of wealth in the hands of few individuals or group rather than using the wealth to serve the interest of the common good is also condemned in these provisions.

³¹S. 17 (3) (a) and (f) provides the need for adequate means of livelihood and suitable employment for all citizens and the need for all children, young persons and the aged to be protected against material neglect.

Although one is not unaware of the non-justiciable status³² of the fundamental objectives' chapter of the Constitution which contains the bulk of these laudable provisions above, it appears the said non-justiciability in this respect has been de-emphasized and rendered inoperative in view of some exceptions and arguments. One of such exceptions, as submitted by Lawal,³³ is when the National Assembly has, in the exercise of its constitutional powers, enacted laws or created agencies to ensure the observance of the fundamental objectives and directive principles of state policy.³⁴ In a number of constitutional provisions enumerated and analysed above,³⁵ it is clear that the National Assembly is indeed empowered to make laws on how to ensure the observance of some of the fundamental objectives' provisions. To this extent, the National Assembly remains the hope of the nation in making the welfare related provisions of the fundamental objectives' enforceable and justiceable. This same paradigm really helped out tremendously in the enactment of the Corrupt Practices and other Related Offences Act, No 5 of 2000.³⁶ The National Assembly enacted the above Act in order to make enforceable and justiceable the constitutional provision on the need to abolish corrupt practices and abuse of power as contained in S. 15 (5) of the nation's grundnorm.

With the above analysis, the somewhat contradictory interpretation which may tend to appear between the provisions of S.13 of the 1999 Constitution, mandating conformity to and application of all the fundamental objectives, and that of S. 6(6) (c) of the same Constitution, restricting the application of fundamental objectives to those aspects of the objectives which have been otherwise provided by the same Constitution, is now settled.³⁷ In the case of *Olafisoye V. Federal Republic of Nigeria*,³⁸ the Supreme Court coming out clearly on this position, maintains that:

The non-justiciability of S. 6 (6) (c) of the Constitution is neither total nor sacrosanct as the subsection provides a leeway by the use of the words "except as otherwise

³²Cases such as; *Okogie V. Attorney General of Lagos State* (1981), INCLR, 218 establish this status.

³³Lawal I.B., 'The Non-Justiciability of the Fundamental Objectives and Directive Principles of State Policy in Nigeria' A Review in Abdulqadir Abikan and Abdullahi S. Ishola (eds) *Nigeria Judicial Contemporary Issues in Administration of Justice* – Essays in Honour of Hon. Justice Isa Ayo Salami, OFR, PCA, A Publication of the Nigerian Bar Association, Ilorin Branch, (Unilorin Press, Sept., 2013).

³⁴For instance, Item 60 (a) Part 1, 2nd schedule, 1999 Constitution.

³⁵Such as S. 4(2), (3) and (5) and S5 16 and 17.

³⁶This came into force on 13th June, 2000, the same day it was assented to.

³⁷Lawal I.B., p. 115

³⁸(2005) 51, WRN, 62

provided by this Constitution". This means that if the Constitution otherwise provides in another section which makes a section or sections of Chapter II justiciable, it will be so interpreted by the courts.³⁹

Experience in Other Jurisdictions

Constitutional provisions on fundamental objectives and directive principles of state policy are available not only in Nigeria, but also exist in a number of other countries of the world today. The non-justiciable status notion of these provisions, as it is erroneously perceived in the Nigeria setting, has been brought to bare in the preceding analysis. From the discussions in the preceding analysis, non-justiciability seems to be the notion of many concerning the constitutional subject of these fundamental objectives. This implies that compliance with those provisions is never an obligation on the government functionaries. The arguments, as already canvassed, have faulted this notion. What the National Assembly can do to make the laudable provisions in this context realizable has also been discussed. To this extent, the syndrome of non-justiciability of the said provisions seems to have gone into the oblivion.

Having said the above, it is necessary at this stage to briefly look into the experiences of India and South-Africa on the same constitutional provisions being discussed. These two jurisdictions are also African countries like Nigeria. This particular geographical clinching informs the writers' selection of the said countries at this juncture. The target behind delving into the situation report in the two chosen African States is to identify whether the *modus operandi* thereat is anything that can offer a platform of guidance to Nigeria on the constitutional subject of fundamental objectives and directive principles of state policy.

Sequel to the above, the experience in India and South Africa on this issue is even better than the position in Nigeria. In the interpretation of the fundamental objectives and directive principles of state policy, the courts in India have gone a step higher in the sense that they now ascribe unconstitutionality to legislative enactments and executive actions that conform not to fundamental objectives and directive principles⁴⁰. In the same vein, the same courts have tended to widen the interpretative scope of the right to life to accommodate socio-economic rights. One instance in this respect was the Indian Supreme Court case of *Jain v state of karnatara*⁴¹ where it was held that the right to life necessarily accommodates the right to convenient sources of livelihood and similar other rights that make enjoyment of the right to life meaningful.

³⁹ Per Niki Tobi, JSC at p. 13

⁴⁰ See for example: *Re Kerala Education Bill* (1959) SCR, 995

⁴¹ AIR (1992) Sup Ct, 1858-1864 (App 6)

In the case of *OlagaTellis v Bombay Municipal Corporation*⁴², a court action was instituted by some slum and pavement inhabitants whose main prayer in the court process was to prevent their quit from their habitat except upon furnishing them with alternative accommodation. Their argument is that their ejection without suitable accommodation would be tantamount to depriving them of economic livelihood as their shelters were the only place they could reside within close proximity to their employment. Upon appeal to the Supreme Court of India, it was held that an important facet of right to life is the right to livelihood and if the right to livelihood is not treated as part of the constitutional right to life, the easiest way of depriving a person of his right to life would be to deprive him of his means of livelihood⁴³. The indispensability of socio economic rights in the full enjoyment of the civil and political rights was graphically captured in by Bhagwati J in *Minerva Mills Limited v Union of India*⁴⁴ thus:

To the large majority of people who are living an almost subhuman existence in condition of abject poverty and for whom life is one long unbroken story of want and destitution, notions of individual freedom and liberty though representing some of the most cherished values of free society would sound as empty words bandied about only in the drawing rooms of the rich and well-to-do and the only solution for making these rights meaningful to them was to re-make the material conditions and usher in a new social order where socio-economic justice will inform all institutions of public life say that the pre-conditions of fundamental liberties for all way be secured.⁴⁵ It was necessary to create socio-economic conditions in which every citizen of the country would be able to exercise civil and political rights and they will not remain the preserve of only a fortunate few.⁴⁶

The essence of the quotation above represents the whole truth and veracity of the matter to which it refers. We cannot but agree with it as the satisfaction of socio-economic rights constitutes the bedrock upon which realization of human rights lies.

In furtherance to the above, in South-Africa, unlike the present situation report in Nigeria, the socio-economic rights are enforceable.⁴⁷ Unlike what obtains under the Nigerian

⁴² Air (1992) Sup Ct, 180 (App 7)

⁴³ Ibid

⁴⁴ (1980) AIR SC Vol 67 1789.

⁴⁵ Ibid

⁴⁶ Ibid

⁴⁷ This is the combined effect of Sections 8 and 38 of the Constitution of the Republic of South Africa, 1996.

Constitution, the social economic rights are enforceable in South Africa.⁴⁸ Chapter 2, the Bill of Rights under the Constitution of the Republic of South Africa, 1996,⁴⁹ contains both civil and political, and socio economic rights. Some of the socio-economic rights include the rights to have access to adequate housing,⁵⁰ the rights to have access to health care, food, water and social security,⁵¹ the rights to basic education including adult basic education,⁵² among others. By Section 8 of the Constitution, the Bill of Rights is binding on the legislature, the executive, the judiciary and all the organs of the state.⁵³

Section 38 of the South African Constitution, entitled, "enforcement of rights", further provides that anyone listed in the section has the rights to approach a competent court, alleging that a right in the Bill of Rights has been infringed or threatened, and the court may grant "appropriate relief" including "a declaration of rights". The section liberalizes the doctrine of *locus standi* in the enforcement of human rights as it does not only allow only those whose rights are breached⁵⁴ to approach the court for redress, but also allows anyone acting on behalf of another person who cannot act in his own name,⁵⁵ anyone acting as a member of or in the interest of a group or class of persons,⁵⁶ anyone acting in the public interest,⁵⁷ and an association acting in the interest of its members,⁵⁸ to equally approach court for redress. The justiciability of socio economic rights in South African is a necessary sine qua non to the full employment of human rights as it would allow its citizens to enjoy the full complements of human rights.

Conclusion

Nigeria as a country has never taken the fight against the menace of economic and financial crimes a matter deserving kid-gloves' treatment. An avalanche of institutional and legislative frameworks abound by successive governments in the country remains one solid evidence in this regard. This paper touches the provisions of the 1999 Constitution of Nigeria which have direct or indirect bearing on combating economic and financial crimes.

⁴⁸ Ibid

⁴⁹ As amended in 2003.

⁵⁰ Section 26 of the South African Constitution

⁵¹ Section 27 of the South African Constitution

⁵² Section 29 of the South African Constitution

⁵³ Section 8(1) of the South African Constitution provides that "the Bill of Rights applies to all laws and binds the Legislature, the Executive and the Judiciary and all organs of the state."

⁵⁴ Section 38(a) of the South African Constitution

⁵⁵ Section 38(b) of the South African Constitution

⁵⁶ Section 38(c) of the South African Constitution

⁵⁷ Section 38(d) of the South African Constitution

⁵⁸ Section 38(e) of the South African Constitution

Our view is that since wealth acquisition is about the major drive towards perpetration of economic and financial crimes, making the socio-economic rights of citizens as provided in the chapter two of the Nigerian Constitution (1999) operational and realizable would go a long way in taming the tide of these crimes. As corollary to this position maintained in the paper, the point is also made that the somewhat erroneous interpretation of non-justiceability of the fundamental objectives and directive principles of states policy (socio-economic rights) in the said chapter two of the Constitution is misplaced. The laudable provisions in this chapter of the Constitution are justiceable if the National Assembly of the Federal Republic of Nigeria evokes their Constitutional powers in context. The Nigeria is urged to take experiences in India and South Africa on the justiceability of socio-economic provisions.