



جامعة الحكمة، إيلورن - نيجيريا
AL-HIKMAH UNIVERSITY **LAW**
JOURNAL



Vol. 1 No.1, 2015



EDITORIAL BOARD

Editor-in-Chief

Dr. Hakeem Ijaiya

Editor

Dr. H.A. Hammed

Secretary

Mrs. K.O. Mohammedlawal

Editors

Dr. Hakeem Ijaiya

Prof. J.O. Adedoyin- Raji

Prof. A.T. Shehu

Dr. H.A. Hammed

Mrs. K.O. Mohammedlawal

Mr. A.A. Yusuph

Consulting Editors

Prof. P.E. Bondzi-Simpson
Prof. (Dr.) Manoj Kumar Sinha
Prof. M. Baderin
Prof. A. Zubair
Prof. W.O. Egbewole
Prof. M.M. Akanbi
Prof. A.A. Popoola
Prof. M.I. Sa'id
Prof. I. Chiroma
Prof. M.T. Abdulrasaq
Prof. M.T. Landan

University of Cape Coast, Ghana
National University of Juridical Sciences, Kolkata, India
University of London
University of Ilorin
University of Ilorin
University of Ilorin
Obafemi Awolowo, University, Ile-Ife
Usmanu Danfodiyo University, Sokoto
Nigeria Law School, Yola
Lagos State University, Ojo
Ahmadu Bello University, Zaria

INSTRUCTIONS TO CONTRIBUTORS

The Al-Hikmah University Law Journal (HUILJ) is the law journal of the College of Law, Al-Hikmah University, Ilorin, Nigeria. The journal is to provide law teachers and scholars with the opportunity to engage in research in the field of law in Nigeria.

Style Guidelines.

1. *Submission head:*
 - (a) Article: 6000-10000 words
 - (b) Note: 4000-6000 words
 - (c) Comments and Book Reviews: 2000-4000 words
2. *Form of Submission:* Submission must be in electronic and in hard copy. All submission must be word-processed, double-spaced in Times New Roman. Main text should be in font size 12 and footnotes in front size 10.
3. *References and Citations:* The Rules of Citation and Style is the Oxford Standard for Citation of Legal Authorities (OSCOLA).
4. *Abstract:* All submissions must contain an abstract of not more than 200 words.
5. *Keywords:* Not more than 5 words

Submission Guidelines.

1. *Contact Address:* Submissions should be addressed to:-

(i) Dr. Hakeem Ijaiya (Editor-in-Chief)
Al-Hikmah University,
Adeta Road, Adewole Housing Estate,
P.M.B. 1601,
Ilorin, Nigeria.
Tel: +2348060645677,
E-mail: hakeemijaiya@gmail.com

CONTENTS

Title Page.....	i
Editorial Board.....	iii
Instruction to Contributors.....	iv
Contents.....	vi
 NIMASA's Approach to Terrorism, Sabotage and Climate Change in Maritime Security and Administration in Nigeria Dr. Bibobra Bello Orubebe	 1-21
 Conceptual and Empirical Justification for Domestication of CEDAW in Nigeria Dr. (Mrs.) Ganiat Mobolaji Olatokun	 22-37
 Judicial Attitude to Fundamental Rights Protection in Nigeria Folorunsho Ahmad Hussein & Mrs. Akanbi, Khairat Oluwakemi	 38-54
 The Human Rights Dimensions of Counter-Terrorism Strategy in the Nigerian Terrorism (Prevention) Act 2011 Mrs. Kolawole, Adeejat Kubra Adenike	 55-80
 Non- Statutory Adoption and its Implications on Hereditary Rights of Informally Adopted Children in Nigeria Mrs. Mohammedlawal K.O & Adedayo T.I	 81-95
 Organ Transplant and its Acceptability: An Appraisal of Medical and Islamic Law Perspectives Dr. Ayinla, L.A, Mrs. Bilikis Ayinla Ahmad & Ibraheem-Gambari A.S	 96-110
 The Institutional and Legal Control of Gas Flaring in the Niger Delta Region of Nigeria Dr. Ijaiya, H.O., Mrs. Bayero-Jimoh & Mrs. Abdulsalam-Lakadir	 111-122

Legal Mechanisms for the Protection of Internally Displaced Persons in Sub-Saharan Africa Dr Foluke Dada	125-151
Challenges to the Sustainability and Management of Public Utility in Nigeria M. K. Imam-Tamim & K. K. Eleja	152-173
Doctrine of Necessity and Emergence of Goodluck Ebele Jonathan as President of Nigeria in 2015 General Elections Abdullahi S. AbdulRauf, Dr. Hanafi A. Hammed & Dr. AbdulQadir I. Abikan	174-190
The Significance of Rules of Natural Justice in Administration of Justice Abdulrazaq Adelodun Daibu	191-206
The Role of Non-Governmental Organisations and the Economic and Social Council (ECOSOC) in the Promotion and Protection of Human Rights: Lessons for Regional Bodies. Mu'azu, Abdullahi Saulawa	207-221
Managing Conflicts and Other Challenges of Nationhood in Nigeria: Experimenting with Good Taxing System as a Paraphernalia Dr. Olokooba S.M & Mrs. Suliat R. A.	222-235
Enforcement of Subscribers' Rights in the Nigerian Telecommunications Industry: Issues and Challenges Dr. Ariyoosu D.A & Mrs. Akangbe S.O	236-255
Arabic Language: A Tool for Understanding the Sharia'h (Islamic Law) Isa Olawale Solahudeen & Jamiu Musibau Akanbi Dosunmu	256-270
The Euthanasia of an 80 Year Old Woman; A Negation of the Dutch (Netherland) Euthanasia and Assisted Suicide Laws Dr. B.A. Omipidan	271-291

The Evolution of Nigerian Federalism: Historical Perspective
Kamal Alhaji Da'ud

292-307

**A Comparative Analysis of the Doctrine of Separation
of Powers under the 1999 Nigeria Constitution and the Shariah
Legal System**

Dr. N.A.O. Ijaiya

308-329

**Mediation as an Effective Dispute Resolution
in Islamic Family Law in Nigeria**

Mrs. Barakat Raji

330-338

Female Suicide Bombers in Nigeria: Issues and Perspective

Onikosi Ahmed Adedeji & Abdulraheem Abdulwahid Yusuph

339-365

**Aviation Security: Airline Passengers' Roles in
Combating Air- Terrorism in the 21st Century**

Dr. Ismail Adua Mustapha

366-381

**Debt Relief Packages: How Effective on the
Developing Countries in Africa.**

Dr. Abdul-Lateef Adekunle Owoade & Adam Ali Adam

382-391

**Proof of Rules of Customary Law in Nigerian Courts:
Issues and Perspectives**

Adekunle Ademola Aminu & Sulaiman Mustapha

392-405

**Towards Effective Environmental Protection Laws
in Nigeria: Problems and Prospects**

Murtala Ganiyu Murgan

406-418

**Legalizing Gay-Marriage in the Contemporary Society:
The Hoax and the Truth**

Abdulsalam Lukman Oladele & Adewara Tajudeen Zubair

419-435

**Court-Connected ADR and Industrial Conflict Resolution:
Lessons from other Jurisdictions**

Sola Animashaun & Ridwan I. Olagunju

436-457

DEBT RELIEF PACKAGES: HOW EFFECTIVE ON THE DEVELOPING COUNTRIES IN AFRICA.

Abdul-Lateef Adekunle Owoade¹, Adam Ali Adam²
Department of Islamic Law, University of Ilorin.
E-mail: mymission43@gmail.com,
Phone: 08121487171

Abstract

The world economy comprises two groups: the developed countries and the developing ones. The economy of the world is not structured in such a way to help the latter group but to ensure their perpetuity in debt to the former. This has led to increment of very heavy debts and one of the ways devised to help the developing countries out of these debts is the introduction of debt relief and forgiveness. However, these devices have not really helped alleviate the plight of these developing nations as the system is designed in such a way that they cannot avoid taking loans from their creditors and fall subsequently into another debt as they are being relieved or forgiven of one. This paper has taken a qualitative approach to assess the effective of the device of debt relief in Africa. It is thus recommended that until the policies of international monetary organisations are tailored towards truly helping the developing countries and allowing them to formulate their own domestic economic policies rather than have some dictated to them, the debt relief will only be a guise to mask the vicious cycle of debt in which these countries are caught.

Keywords: World economy, Developed countries, Developing countries, Debt relief, Forgiveness

1. Introduction

A renewed interest has occurred in the issue of debt relief in recent times. This renewed interest has been largely aided by two factors: firstly, a change in the Presidency of the G8¹ and the EU² in 2008 and secondly, the Tsunami disaster.

Regardless of their personal ambitions, both the Ex-British Prime Minister Tony Blair and his Chancellor, Gordon Brown, shared a conviction that Britain's

¹ The group of the eight most industrialized nations in the world, comprising Canada, France, Germany, Italy, Japan, Russia, the United Kingdom, and the United States. Representatives from these countries meet regularly to discuss and draw up global economic policies. Full form Group of Eight.
² European economic and political alliance: an economic and political alliance of various European nations. Its goals include a single economic community and social and political cooperation.

leadership of the G8 and EU gave them a real chance to tackle poverty through an array of poverty-reduction strategies, including debt-relief. The British Chancellor began early enlisting support for debt relief. In December, 2004, in Washington, he called for a Marshall plan for the world's poor. This envisages rich countries agreeing to a doubling of aid and the visitation of a major debt forgiveness programme / crusade

The second factor that has led to a re-examination of the debt issue has been the Tsunami disaster, the giant tidal wave that hit the coastal regions of the Indian Ocean on December 26, 2004, killing at least 286,000 people and causing havoc to the fragile social economic and ecological systems of these areas.³

With every affected country facing pressure for higher public spending to rebuild infrastructure, a moratorium on debt payments could not have come at a better time. Indeed, these two basic factors are linked; the disaster highlighted the increasing vulnerability of these countries and their inability to respond to such disasters.

The solution to poverty in developing nations of Africa goes beyond debt-relief and other poverty reduction/alleviation strategies. This is evident from statistics which show that despite continuous poverty-reduction strategies embarked upon over the last decades of the twentieth century world-over, the actual number of people living in poverty has actually increased by almost 100 million. This occurred at the same time that the total world income increased by 2.5% annually.⁴

Therefore, the problem and solution lies in the nature of the international economic system which currently enriches the rich at the expense of the poor. It is only through the establishment of an international economy based upon the principles of absolute justice and fairness that the misery of developing nations' impoverishment can be alleviated.

Origin of Debt in the Developing World

Geographically, the world is divided into seven continents but for the international economic system they are essentially divided into two:

The poor, developing debtor countries and the rich, developed creditor countries. The poor, under-developed or developing countries are what was once referred to as the "third world", at the height of the ideological rivalry between the East and the West in the 1960's. The concept of third world was coined by Alfred Sauvy.

To Sauvy⁵, third world states comprises "the countries of Africa, Asia, Latin America and the Middle East who were ex-colonial territories". While Kwame Nkrumah

³ 'The Review of Religious', (May 2005)100 (5), Islamic Publications,20.

⁴ E. J. Stightz, 'Globalization and its Discontents' (London 2003) 5.

⁵ C. Clapham, *Third World Politics: An Introduction* (London, Rontledge Croom Helm Ltd.1985) 72.

defines the "third world" as "the colonial territories and ex-colonial territories"⁶, to Hans Maxageuthau, "third world" consists of "the Afro-Asian block of nations"⁷. Bergsten classified the "third world" as "the middle class of the developing states and the "have-nots".⁸

On the other hand the 'first world' comprises the USA, and USSR, and the second world comprises the States of Western Europe, Japan, Canada, Australia and China. The third world or undeveloped countries are now re-christened developing countries. The countries are noted for certain characteristics associated with them i.e. poverty, low level of economic, political and social development; and high dependency as well as debt. Being ex-colonial States, the situation has led to unequal development between the rich western countries and the developing countries in the economic and financial relations.

The twentieth century saw many nations achieving political independence from the oppression of imperialism. Ghana blazed the trail in 1957 and Nigeria followed in October 1960. The wind of change swelled and swept through Africa. However, this independence did not necessarily result in economic freedom. As a result of series of factors, these newly independent States have become economically dependent upon rich Western Countries for "loans". These countries incur interest-bearing loans not only for developmental projects, but also for day-to-day expenses as well as to pay interest accrued on their previous loans, thus keeping them locked in a vicious circle of indebtedness.⁹

The origin of developing nations of Africa's debts is largely attributable to three main causes. First, as a result of colonialism developing countries could not develop independent economic policies. They were tied to the capitalist world economy and their development depended on what was obtained in the world economy, dominated and dictated by their former colonial masters. Many developing countries' economy have been tailored to be producing raw materials, mono-culture, and importing manufactured goods. Thus, the developing countries economy had been one of unbridled and unremitting consumerism. This type of relation leads to poverty in developing countries and ties their economy to a global system of production and distribution.

In the event therefore, any fluctuation in the dominant economies of the western countries triggers fluctuation in developing countries. This situation induces dependency on the developed economies for loans, grants and technology (especially

6

7

8

9

K. Nkrumah, 'Neocolonialism: The Last stage of Imperialism', (New York 1966) 31.

C. Clapham (n 5) 73

ibid.

The dependency on foreign loans has not only disrupted the economic well-being of these poor nations but has adversely affected their self-determination and forced them, sometimes against their interests to submit to the demands of the creditors.

manufactured goods).¹⁰ Secondly, the worldwide events in 1970s and 80s – particularly, the oil price shocks, high interests rates and recessions in industrial countries and weak commodity prices – were major contributors to the build up of debt.

Endogenous factors have also played a large role with weak economic policies and poor governance in many developing countries. These range from natural disasters, resources depleted by past invaders, political instability, tribalism, civil wars, corruption, two credit ratings by capitalist agencies, poor exchange management, or an administration that is open to bureaucracy at its best and bribery at its worst. “As a result, developing countries’ debt rose from \$500 billion in 1980 to approximately \$2 trillion in 2000.”¹¹

Thirdly, the unfair free trade laws in operation, which work to protect Western industry at the expense of developing nations, also increase developing countries’ debt – this is an act of illegality and injustice against the growing poor countries.

An example of this can be seen with reference to European Union (EU) subsidies on its agricultural industries. Below is a table of “Countries with the Biggest Debt-repayment burden” with debt as percentage of GNP, 1994.¹²

S / N	COUNTRY	PERCENTAGE
1	Nicaragua	800.6%
2	Congo	954.2%
3	Mozambique	450.4%
4	Guinea-Bissau	340.7%
5	Cote d’Ivoire	338.9%

In a visit to Mozambique in January, 2005, Gordon Brown (British Chancellor) was struck by the extent to which protectionism was shutting the country’s sugar producers out to world’s markets. British officials have pointed out that the total support for agriculture within OECD countries was \$318 billion, roughly five times more than all the aid the world given them. It was estimated that in shutting out EU markets alone, such subsidies cost developing nations \$20 billion a year.¹³

¹⁰

The importance of technology is in the fact that it is knowledge and the owner has some kind of monopoly over the purchaser or donee. This accounts for the high monopoly price being paid by the developing countries to owners of technology in the developed world.

¹¹

IMF, ‘The Logic Debt Relief’, (IMF Working Papers, September 2000)

¹²

State of the World report ‘New Internationalist, Issue 287, November, 2001

¹³

Patrick Wintour, ‘Mandela backs Brown’s plan for Africa’ *Guardian* (17 January 2005)

Similarly, the United States has raised its farms subsidies, contributing to enriching a few large corporate farmers in the US at the expense of the poorest of the poor internationally.

For instance, subsidies to 25,000 American cotton farmers exceed the value of what they produce and so depress cotton prices. Consequently, it is estimated that the millions of cotton farmers in Africa lose more than \$350 million each year.¹⁴

However, causes of the indebtedness of the majority of the third world have far deeper roots that are embedded in the structure of the global capitalist financial system based upon interest. This is highlighted in the following quote from the then President Obasanjo of Nigeria, commenting on the debt Nigeria faces:

*All that we had borrowed up to 1985 or 1986 was around \$5 billion and we have paid about \$16 billion yet we are still being told that we owe about \$28 billion. That \$28 billion came about because of the injustice in the foreign creditor's interest rates. If you ask me what is the worst thing in the world, I will say it is compound interest.*¹⁵

Although, an analysis of the harmful effects of interest is important, it goes beyond the scope of the discussion of this article. It suffices to say that because of interest, despite ever-increasing payments total debt continues to rise.

“Consequently, the developing world now spends \$13 on debt repayment for every \$1, it receives in grants”.¹⁶ What is crucial here is that the cost of servicing debts has reached unsustainable levels. The present situation as well as the prognosis is alarming to say the least. Faced with these unfair laws of international economics, is it any wonder that these countries have been unable to lift themselves out of destitution?

Political and social fragility apart, developing countries have to grapple with one major cause of economic under-development and regression i.e. corruption. Corruption is manifest in many shapes and public (or private) powers vested in an office in order to achieve private goals. The dangers of corruption are at their peak when political and public offices become accepted as an avenue of personal wealth and power.

The upright, uncorrupted man of integrity is treated with scorn and derision, and socially ostracized, because he failed to “make it”, “build himself” when he was

¹⁴

Stight E.J (n 4) 254.

¹⁵

Quoted in Jubilee 2000 news update, August 2000

¹⁶

Anup Shah <www.globalissues.org/TradeRelated/Debt/Scale.asp>

appointed or elevated to a lucrative position.¹⁷

Taking a cue from their superiors, even petty officials, for instance, the clerks, messengers use their bit of power to increase their income. The messenger invents ingenious means of extorting money: missing file, misfiled files, files hidden under the rug, kept out of sight and out of reach until he is "seen or settled". Corruption, bribe and swindling of government funds, thus greatly hinders the enabling environment for proper economic development.

Mismanagement of resources is another area the developing countries need to address. Loans, aids, debt reliefs and grants are frittered away, siphoned and stacked in foreign banks or mismanaged. Development projects are not executed, or abandoned. Rather resources are wasted on uncompleted projects or white elephant projects which have little or no relevance to the mass of the population.¹⁸

When Bob Geldof was asked sometimes ago what had changed in the twenty years since "Live Aids", he replied, "A lot had. Africa had grown poorer by 25%."¹⁹

Recommendations

1. *Allowance of Local Formation of Economic Policies*

Very often the exacerbating poverty of some developing countries is attributed to the forced policies imposed upon them by global financial institutions such as the International Monetary Fund (IMF) that prevent them from breaking free from the vicious circle of debt and poverty, for example, Structural Adjustment Programme (SAP) 1964-89. Developing countries claim that there is a lack of choice when devising economic development growth strategies. However, examples from other countries show that alternatives are available. Poland, for instance, employed and adopted alternative strategies to those advocated and introduced by Western Financial Institutions. Instead of following policies recommended by the IMF, it pursued those which it felt were needed for the development of its state such as strengthening of democratic reform, keeping unemployment low and providing benefits for those who were unemployed.

17

At one level corruption manifests in accepting gratification for a work to be done (the case of Halliburtons), accepting properties built in choice areas, lodging funds in foreign accounts. At another levels, contracts are awarded between Nigeria and International economy, for instance, by providing lucrative opportunities for corruption through the avenue of contracts, concession agreements.

18

In Nigeria, for instance, one is tempted to ask-why are our petroleum refineries not working? Why are Ajaokuta and other steel rolling mills not working also in Nigeria? Why is Nigerian Telecommunications (NITEL) not working? Why is Power Holding Company of Nigeria (PHCN) not working? In short why is Nigeria economic system not adjusting or responding to global or international economic system? One may hazard an opinion "mismanagement": that is a process of spending huge sums of money on which few clique of people benefit from. Recall the billions of naira spent on petroleum regularization funds.

19

Bob Geldof 'Why Africa?' (The Bat Human Rights Commission Bi-Annual Lecture at St. Paul's Cathedral, 20 April 2004)

The result is that Poland is the most successful of the Eastern European countries. The same can be said to be true of Ghana in Africa. It is evident that solutions to poverty do exist and are possible. What is certain, however, is that poverty-reduction strategies cannot be tailor-made and dictated from elsewhere. Solutions need to be home-grown and should take into consideration the specific characteristics of the country, society and the needs of its people. In essence, this needs to be a democratization of the international financial system.

Countries are rejecting and need to continue to reject the notion that a single set of policies dictated by the West or West-controlled international institutions are right as this is in contradiction to both the principles of economics, which emphasize the importance of trade-offs, and common sense. In Western countries there is often active debate of every aspect of economic policy. This needs to transcend to the international level as well.

2. Partnership Between Local and International Policy Makers

A broad range of economists and officials from developing countries need also to be involved in the debate. There should be an exchange of information and view points and there should be an opportunity for new information to be considered.

3. Opening of Existing International Policies to New Ideas

Thus, the economic principles of Western countries and international institutions need to be open to new information and ideas that may expend or change current understanding. This will also enable developing countries to assume responsibility for their well-being themselves, encouraging them towards more effective governance, democratic accountability, openness and transparency.

Government needs to play a role in not only fostering economic growth, but also ensuring social justice to offset inequalities of wealth produced as a result of market forces. In countries experiencing socio-economic success, such as the Scandinavian countries, where governments have provided a high level of social infrastructure in the form of high quality education to all and a generous welfare system. In contrast, in Nigeria government policies have tended to pauperise the people, for example mass retrenchment, downsizing etc., without corresponding employment generation, and prompt payments of pensions, gratuities etc. In short, governments have a role in making economies function efficiently, as well as humanely.

4. Tailoring Policies to truly help Developing Countries

Development, in a candid approach is neither about enriching a few, nor about being able to buy Western consumer products. "Development is about transforming societies, improving the lives of the poor, enabling everyone to have a chance at

success and access to healthcare and education.”²⁰ This is the true meaning of development sustainable, equitable and democratic growth.

This is even inherent in religions i.e. the concept of equity, since religious seeks to establish a politic-economic, system based on morality and absolute justice. For instance, at the centre of the Islamic economic system we read that it commences with the premises, “All that is in the heavens and earth has been created by and belongs to God Almighty.”²¹ Who in turn has entrusted man with these earthly provisions. Hence, man’s responsibility is to discharge this trust honestly and equitably.

In the economic sphere, there are four (4) fundamental rights granted to man the right to be fed, the right to be adequately clothed, the right to clean supply of water and the right to shelter. This is first charter of “rights” according to Tahir Ahmad.²²

Yet despite the progress of civilization and the great leaps in scientific and material progress, the basic principles of economic justice set out years back are still not met even today. So what happens when the basic needs of some are not met? Humanity at large must be, and feel responsible and answerable to human problems. It is said: “Whenever natural or man-made disasters strike any community, it must be treated as a (common) human problem and all societies and states of the world must help alleviate the sufferings”²³

This is the level of consciousness and sensitivity expected in response to man’s sufferings to one another. In the words of Tahir, “This should be raised to such a degree whereby members of society as a whole are concerned more about what they owe to society than what society owes to them”.²⁴

This is in stark contrast to the current rationality of the international financial system. Wealthy countries devise macro-economic policies to assure the continued strengthening of their economies at the expense of weaker nations. They had used global financial institutions like the World Bank and the I.M.F to further their nationalistic agendas unjustifiably and illegally. Whether it is giving out loans, grants or aid to the developing nations, setting up and promoting trade and financial co-operation between nation-states, rich countries pursue policies that further the interests of themselves at the expense of poorer nations.²⁵

²⁰

Stightz E.J (n 4)252.

²¹

Tahir Ahmad H.M, *Absolute Justice, kindness and kinship: The Three Creative Principles*, (Islam International Publications Ltd. 1996)117

²²

Tahir Ahmad H. M, *Islam’s Response to Contemporary Issues* (Islam International Publications, London 1992) 212.

²³

ibid.

²⁴

Tahir Ahmad H. M, (n 21) 99.

²⁵

The crucial factors that will enhance the economic development of the developing countries is the re-ordering of the international economic system so that developing countries can get out of the role which had been there for so long, the role which enabled the developed countries to be enriched which stems from unequal terms of trade, export of raw materials and imports of manufacture goods.

5. *Political Stability in Developing Countries*

On the political front, developing countries of Africa should cultivate and nurture democratic culture or socialization among the people. Even the democracy they emulate is badly practiced as all important rules of democracy like free and fair elections, tolerance and peaceful change of government are brazenly and imprudently violated. The positive of politicians seems to be ones in government and power, always in government and power, and forever in government and power. This encourages "do-or-die" approaches to elections and conducts of fair elections, and therefore makes peaceful change elusive, and so undermines political economic development.

6. *Encouragement of Local Innovative Ideas*

Developing countries of Africa, and Nigeria in particular has to move away from consumer mentality (after about a decade of democracy now), for sooner or later, it induces a culture of dependence and ultimately inferiority complex. Nigeria for instance, has become copy-cats, aping, swallowing and imitating anything foreign. We become convinced that we do not need to attempt to invent to be creative or attempt to produce, like other developed nations even though we are blessed with abundant talents and resources.

As Professor Femi Osofisan of Nigeria postulated, "Please note carefully that this aping ... is confined to only the superficial areas of social life ... and not for instance, of personal discipline, ... It does not extend to the ambition to build our own factories or to acquire mastery over the tangible world and so domesticate the achievements of science and technology."²⁶

In other words, we should not be over-dependent on foreign technology and consumer goods. "This is why our factories "die" including the factories of the mind."²⁷ Our factories of the mind should manufacture creative and innovative ideas.

The talents among us who would want to explore, experiment and innovate should be encouraged, recognized and honoured and not only the opulent politician who adds nothing or little to the global economic development.

Conclusion

The liberal disposition of the government of United Kingdom and the unfortunate Tsunami disaster has conspired to rekindle interest in the debt profile of developing countries. Developing countries are largely countries that have emancipated from colonial ink to independent nations. These countries share common features: under

²⁶

²⁷

Sunday Punch Newspaper (Nigeria, March 29 2009) 48.
ibid.

developed economies, political fragility and dependency. These features, combined with unfair free trade laws and forced policies imposed by global financial institutions, for instance, the I.M.F and the World Bank, worked against the economies of developing countries, the like of which Nigeria experienced in the last decade despite the democratic governance policies. Thus, these developing countries are compelled to take loans and the cost of servicing debts at compound interest has reached unsustainable height and proportion. The debts are owed to the developed countries that are going materially richer, regionally bigger (such as the EU) and poorer, divided, devastated and ravaged by civil unrests / crisis.

As the continents are shrinking into a global village the poverty gulf between the developed and developing countries must be reduced to promote a fair and peaceful world. Morality needs to return to international relations by re-ordering of the international economic system. This can only be achieved as a suggested solution, a set of universal values based upon absolute justice: justice to the developed countries, justice to the developing countries and justice to the world economy. This guarantees fairness to all, devoid of all forms of exploitations and illegality vis-à-vis a justified and free economy from compound interest where the world's poor are treated as being of equal worth, of having the same rights of life and liberty. It has been observed that, the root cause of problems, whether social, political, economic or moral, is the violation of the principle of justice. Without global justice, peace cannot be guaranteed let alone of it prevailing in the international system.

Keywords: Custom, Incompatibility, Native, Public Policy, Repugnancy.

1. Introduction

Count Friedrich Karl Von Savigny (1779-1861) introduced a new dimension in the legal arena through his concept of Volkgeist or common conscience of the people, which according to him is the peculiar seat of law. According to him, the true living law is customary law because it does not emerge from the arbitrary will of a law giver, but from internal, silently operating forces within the community.