

NILDS BILL DIGEST SERIES 2, NO 1, 2019

ANALYSIS REPORT ON A BILL FOR A LAW TO ESTABLISH THE KWARA STATE SOCIAL INVESTMENT PROGRAMME, CHARGED WITH THE RESPONSIBILITY OF ALLEVIATING POVERTY AND ENSURING EQUITABLE DISTRIBUTION OF RESOURCES AND ECONOMIC GROWTH IN THE STATE; AND FOR CONNECTED PURPOSES

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OBJECTIVES OF THE BILL

The objectives of the Bill to Establish the Kwara State Social Investment Programme (hereinafter referred to as the Bill) is as follows:

1. To alleviate poverty and hunger in the State;
2. To ensure equitable distribution of resources to vulnerable population including youths, children, women, widows, traders, physically challenged, the aged and such other persons as the programme may identify; and
3. To improve the socio-economic condition of the populace at the grassroots level by promoting prompt delivery of services geared towards poverty reduction in the State.

SUMMARY OF THE BILL

The Bill consists of twenty-seven (27) clauses. It is important to note that because of the vast areas covered by the twenty-seven clauses in relation to the establishment and administration of the Kwara State Social Investment Programme, the Bill is grouped into Six Parts. Clause 1 provides for the

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establishment of the Kwara State Social Investment Programme (hereinafter referred to as "The Programme"), while Clause 2 confers corporate status for the Programme. The operational characteristic, objectives, and functions of the Programme were provided for under Clauses 3, 4 and 5 of the Bill respectively.

The establishment of the Committee to run the Programme with its composition, functions, and subsidiaries of the programme are provided for under Part III of the Bill. The administrative organization of the Programme in terms of the management team, its duties and general staff, and funds and resources of the Programme are provided for under Parts IV and V of the Bill. Part VI of the Bill specifies how the Programme should establish its accounting system by keeping proper records or account of revenue and expenditure, payment receipts, assets and liabilities for purpose of accountability. It is important to note that attached to the Bill is a Schedule which provides for supplementary provisions relating to the Committee for the Programme especially issues relating to its meetings, voting pattern, liability of Committee members, and mode of execution of the contract.

BACKGROUND

Poverty in any society has been attributed to a lack of opportunity and deprivation of the affected population of equal access to the nation's common resources to meet the basic needs of life and pursuit of happiness and development. Poverty, therefore, has a corollary linkage to the question of equitable distribution of wealth, economic growth and development.⁷² It has often been identified as a sign of underdevelopment when viewed from the traditional concept of poverty. One of the indices to measure good governance is the Human Development Index (HDI).⁷³

⁷². Grusky and Kanbur (2006). *Poverty and Inequality (Studies in Social Inequality)*. Stanford University Press.

⁷³. Rosario, G et al, "Indicators of Good Governance: Developing an Index of Governance Quality at the LGU Level", *Journal of Philippine development: a technical journal of the National Economic and Development Authority* XXVI. February, 1999. Available from:
https://www.researchgate.net/publication/24110750_Indicators_of_Good_Governance_Developing_an_Index_of_Governance_Quality_at_the_LGU_Level [accessed Dec 01 2019].

According to Rosario, G. et al, there is a strong connection between government social/human development expenditures and HDI (UNDP 1996). Countries that spend more on social/human development tend to rank high in HDI.⁷⁴ Thus, a society where the wealth of the nation is equitably distributed and supervised for optimum result is poised to experience development and having nearly zero gap poverty indexes among its population.⁷⁵

To measure Human Poverty Index (HPI) requires a consideration of the extent of deprivations of an individual in a society or population in three basic dimensions as captured in the Human Development Index (HDI) which includes; "a long and healthy life, as measured by the probability of most surviving past the age of 40; knowledge, or exclusion from it, as measured by the adult literacy rate, and a decent standard of living, or lack of.⁷⁶ It is important to note that the above-mentioned Poverty Index Indicators is HPI-Type 1 which is being used for measuring poverty in the developing countries, Nigeria inclusive.

74.

Ibid.

75.

Poverty gap index, a moderately popular measure of poverty is the poverty gap index, which adds up the extent to which individuals on average fall below the poverty line, and expresses it as a percentage of the poverty line. More specifically, define the poverty gap (Gi) as the poverty line (z) less actual income (yi) for poor individuals; the gap is considered to be zero for everyone else. Poverty Manual, All, JH Revision of August 8, 2005. Available at

http://siteresources.worldbank.org/PGLP/Resources/povertymanual_ch4.pdf.

Accessed on December 1, 2019.

76.

See Economics Online- Poverty. Available at

https://www.economicsonline.co.uk/Managing_the_economy/Poverty.html. Accessed on December 1, 2019.

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compared to the rest of the country. According to the NG-MPI report, the Poverty Index results in Nigeria show, "a high incidence of poverty across the North with the poorest states having over 80% of their population classified as multidimensionally poor. The intensity of deprivation in the region is above 40% for most states which means that the average household in these areas is deprived in just under half of the indicators". The situation in the South West of Nigeria was far better to Northern Nigeria with lower incidence and intensity of poverty.

Though the levels and intensity of poverty across the regions of Nigeria may vary the nation as a whole needs to address the issue of poverty through sustainable measures. The alleviation of poverty should be seen as a matter of economic objective by the government at various levels. This is because widespread poverty may militate against economic growth and development.

Kwara State is one of the states in Northern Nigeria, though with relatively lower incidence and intensity of poverty compared to many states in Northern Nigeria, is grappling with the problem of poverty and lack of access to basic resources for economic growth and development among her population. It is against this backdrop that the Bill is being initiated to address the perennial problem of poverty in the Kwara State and to provide for social investment programme that will enhance vulnerable population access to resources for economic growth and as a measure for the alleviation of poverty.

COMMENTS

i. Existing Legal Order

Government effort in fighting poverty and improving the wellbeing of Nigerians dated back to some decades in the post-independence era of the Nigerian state. The realization of the impact of poverty on the development agenda of the government serves as an impetus towards finding a lasting solution to the problem of poverty and poor wellbeing of the majority of Nigerians. There have been several policy measures and legal regimes put in place to respond to the growing level of poverty across the states of the federation. In this vein, there are some legal regimes and policy initiatives put in place to address the

problem of poverty in Nigeria. However, the following are considered to be fundamental among various responses to the problem of poverty and measures put in place to reduce or eradicate poverty in Nigeria through empowerment, provisions of skills and facilities to promote creativities and equitable access to common resources of the state especially by the most vulnerable population of the society.

ii. **The Constitution of the Federal Republic of Nigeria, 1999 (As Amended)**

Rights Implications of Poverty

The preliminary but perhaps most important question is the legislative authority of the Kwara State House of Assembly to enact this law. This is particularly so given that virtually all the poverty eradication and alleviation programmes discussed in due course in this Report have been initiatives of the Federal Government whereas this Bill is proposed as a Law of the State legislature. Ideally, under Item 60(a) of the Exclusive Legislative List,⁷⁹ the National Assembly *seemingly* has exclusive power to make law with respect to matters contained in Chapter II of the Constitution i.e. the Fundamental Objectives and Directive Principles of State Policy. Otherwise, under section 16(1)(b) and (2)(b) and (c) of that Chapter, the State has the following responsibilities, amongst others:

- (a) To control the national economy in such manner as to *secure the maximum welfare, freedom, and happiness of every citizen on the basis of social justice and equality of status and opportunity*;
- (b) To ensure that the material resources of the nation are *harnessed and distributed as best as possible to serve the common good*;
- (c) (c) that the economic system is *not operated in such a manner as to permit the concentration of wealth or the means of production and exchange in the hands of few individuals or of a group*

These responsibilities are not dissimilar to the objectives of the Bill as highlighted above in this Report. Although the aforesaid Item 60(a) of the

⁷⁹ Part I of the Second Schedule to the Constitution.

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Exclusive Legislative List *appears to* give the National Assembly exclusive legislative power over matters contained in Chapter II of the Constitution, the Supreme Court has said that this is not necessarily the case and that by the use of the word "State" in the provisions in Chapter II, the power is, on a proper construction, actually concurrent amongst three tiers of government i.e. the local, state and federal governments (see *A – G, Lagos State v A – G, Federation & 35 Ors.*⁸⁰ *AG, Ondo State v AG, Federation & 36 Ors.*⁸¹ *FRN v Anache.*⁸²). This is the clear constitutional basis for the legislative power of the Kwara State House of Assembly to enact this Bill into law.

Moreover, the downsides of poverty due to deprivations suffered by people living in poverty, directly and indirectly, negate the fundamental human rights they are entitled to under the Constitution of the 1999 Federal Republic of Nigeria (as amended). People living in poverty are prone to right violations compared to people not living in poverty. Some rights fall under the category of socio-economic rights which under the Nigerian jurisprudence are not yet accorded justiciability. Therefore the derivations of socio-economic rights such as the right to good health, education, clean environment, water, and other basic needs of life can accentuate poor conditions of living and erosion of human rights.

Right to life, liberty, and security of person is guaranteed under Article 3 of the Universal Declaration of Human Rights (UDHR).⁸³ Thus, Section 33 of the 1999 Constitution of Nigeria recognized this right as a supreme right. Unfortunately, poverty is a disease that may deny people of the right to life. For this reason, there is a corollary between human rights as recognized under the Constitution and development because effective enjoyment of human

⁸⁰ (2003) 14 N S C Q R 838, 885.

⁸¹ (2002) 9 NWLR (Pt 772) 222.

⁸² (2004) 17 N S C Q R 140, 197 – 204.

⁸³ This right is equally protected by Article 6(1) of the International Covenant on Civil and Political Rights (ICCPR), and Article 9 provides for the right to liberty and security of the person. This same right for the child is guaranteed by Article 6 of the Convention on the Rights of the Child (CRC), while Article 4 of the African Charter on Human and Peoples' Rights (African Charter) protects the right to life.

rights and its implementations is dependent upon sound and effective national and international policies of economic and social development.

Where a better linkage is established between human rights and development, the issue of poverty will be addressed as a matter of human rights. The potentiality of strengthening human rights in developmental policies is the fact that it will engender poor people access to basic resources of the state for their development, the security of livelihood and poverty eradication.

From the above constitutional exposition, the issue of poverty and equal access to state resources for development can be better addressed if the Nigerian people through the instrumentality of the law and to some extent some measure of judicial activism, make socio-economic rights as justiciable rights in the court of law. This will go a long way in improving the deplorable state of the wellbeing of the people living in poverty. Therefore the present Bill is well-conceived in addressing the problem of poverty and inequality in society.

National Directorate of Employment (NDE)

Before the mid-1980s, Nigeria seems to lack a comprehensive national policy on youth empowerment, vocational skills development/acquisition for self-reliance and empowerment opportunity. To address these needs, the then Military Government under the leadership of General Ibrahim Babangida established the NDE with the core policy mandate of self-reliance. By the design of the NDE Directorate, it championed the acquisition of vocational skills among the Nigerian youths and providing an enabling environment for the promotion of creativity and youth development. The programme achieved its objectives of vocational skills development and youth empowerment through the provision of skills acquisition/training facilities needed by the beneficiaries.

National Poverty Eradication Programme (NAPEP)

One of the major banes of policy initiatives and accomplishment of the same in Nigeria is the problem of continuity which some now referred to as “policy somersault”. The NDE programme could not be endured for long to achieve its laudable objectives of vocational skills development and youth empowerment before it was discontinued. In 2021 however, President

Olusegun Obasanjo administration introduced yet another model of poverty eradication and youth empowerment programme known as NAFEP. In a practical sense, the mandate and objectives of NAFEP are not diametrically different from the purview of NDE's objectives. Rather, it was a resuscitation of that same programme of the positioning of Nigeria for self-reliance status, self-sustenance, self-employment and thus, eradicating the problem of poverty through the improvement of peoples' socio-economic wellbeing. In all, NAFEP is supposed to address the problem of unemployment and poverty in Nigeria.

National Economic Empowerment Development Strategy (NEEDS)

The goals of NEEDS are directed towards achieving the creation of employment and reduction of poverty, create a smooth transition from tradition to a modern industrial economy that will serve as a catalyst for economic development and growth. NEEDS focuses on four key strategies: reorienting values, reducing poverty, creating wealth, and generating employment. It is based on the notion that these goals can be achieved only by creating an environment in which business can thrive, government is redirected to providing basic services, and people are empowered to take advantage of the new livelihood opportunities the plan will stimulate economic growth and development and therefore eradicating poverty in Nigeria.

To reduce poverty and inequality, the NEEDS plan proposes acting on several fronts: Offering farmers improved irrigation, machinery, and crop varieties will help boost agricultural productivity and tackle poverty head-on since half of Nigeria's poor people work in agriculture. Supporting small and medium-sized enterprises will help create jobs.

Government Enterprise and Empowerment Programme (GEEP)

The Government Enterprise and Empowerment Programme (GEEP) is a Social Investment Programme introduced by the Federal Government in 2016 to achieve a greater financial inclusion programme in Nigeria especially to cater for the petty trader and other categories of people who do not have the opportunity of raising working capital to improve or run their respective

economic activities. The programme has been adjudged as the most impactful *Financial Inclusion* programme in Africa. According to a report, it has empowered more than “two million micro-enterprises with collateral-free, interest-free loans to grow their businesses, making it the largest government-led microcredit program globally”.⁸⁴ The focus of the scheme is to cater to the vast majority of these micro-enterprises such as artisans, enterprising and creative youth, petty traders, small scale farmers and farm workers, and merchants, in over 1600 clusters and markets across all 36 states of Nigeria, and the Federal Capital.⁸⁵

The UN General Assembly Declaration of the Right to Development

The UN General Assembly proclamation of the right to development in 1986 marked the watershed for the mainstreaming human rights in development discourse. The UN General Assembly Declaration on the Right to Development is copiously captured in Article 1 which provides that ‘the right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.’⁸⁶

Article 2(1) provides for “the need for human persons to be the active participant and beneficiary of the right to development, as the human person is the central subject of development”.⁸⁷ Article 2(3) provides for “the duty of States to formulate appropriate national development policies that aim at the constant improvement of the well-being of the entire population and of all individuals, on the basis of their active, free and meaningful participation in development and in the fair distribution of the benefits resulting therefrom,

⁸⁴. See Secret Behind Trader Moni: The Technology, Process, and People. Available at <https://punchng.com/secret-behind-tradermoni-the-technology-process-people/>. Accessed on December 3, 2019.

⁸⁵. *Ibid.*

⁸⁶. See Poverty: Legal and Constitutional Implications for Human Rights Enforcement in Nigeria, at p 31. Available at

<https://biblio.ugent.be/publication/4101310/file/4101318.pdf> . Accessed on December 3, 2019.

⁸⁷. *Ibid.*

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including the primary responsibility for the creation of national and international conditions favourable to the realization of the right to development".⁸⁸

For developmental drive to be meaningful, States are under obligation to cooperate with one another and encourage each other to observe and work towards the realization of fundamental human rights.⁸⁹ Article 6(2) underscores the need to see all forms of rights as indivisible and the need to promote and protect all civil, political, economic, social and cultural rights. Thus Article 6(3) requires States to take steps to "eliminate obstacles to development resulting from failure to observe civil and political rights, as well as economic social and cultural rights".⁹⁰

Article 8(1) of the Declaration provides that "States should undertake, at the national level, all necessary measures for the realization of the right to development and shall ensure, inter alia, equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and the fair distribution of income".⁹¹ This provision clearly underscores the relationship between rights to development and the eradication of poverty.

Content Analysis

The Kwara State Social Investment Programme Bill, 2019 seeks to establish an administrative and financial organ to serve as a co-ordinating resource base to alleviate poverty and hunger in the state. It is important to commend the draftsman of the Bill for the industry in drafting the Bill. However, we seek to make the following observations in respect of the contents of the Bill. To start with, it is observed that Part II of the Bill which comprises of Clauses 3 to 5 appears to duplicate or repeat some legislative intent under Clause 5

88

Ibid.

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Ibid.

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Ibid.

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Ibid.

Sub-Clauses (a) and (t). A perusal of the Sub-clauses 5 (a) and (t) shows that the two Sub-clauses provide for the same thing, i.e. formulation or initiation of policies and strategies for effective implementation of the Social Investment Programme for combating poverty and hunger in Kwara State. For that reason, it is hereby recommended that Clause 5 Sub-Clauses (a) and (t) be merged while retaining Sub-clause (a).

Clause 5 Sub-clause (g) of the Bill is most likely to work counterproductive in achieving the optimum objective of the Bill. No doubt the requirement that all monies to the beneficiaries should be paid through their accounts is meant to avoid corruption but it must be noted that the vast majority of the participants or beneficiaries are market women, illiterate farmers and traders, and rural dwellers. They may not be able to maintain a bank account or may not even have one. Thus, adherence to the mandatory requirement under Clause 5 Sub-Clause (g) of the Bill will be a bottleneck to the effective running of the Kwara State Social Investment Programme. Fortunately, the provision of Sub-clause (i) suffices to address the concern of documentation and accountability as envisaged in Clause 5 Sub-clause (g) of the Bill.

Another very important provision in the Bill concerns the appointment of the chairman for the Social Investment Programme. Clause 6 (a) emphasized that to be appointed as a Chairman for the Programme the applicant must be an indigene of Kwara State. This kind of provision is in violation of the 1999 Constitution which protects the right of every citizen of Nigeria against any forms of discrimination. It is therefore recommended that the Sub-Clause (a) of Clause 6 should be modified by removing the offending requirement.

CONCLUSION AND RECOMMENDATIONS

After going through the provisions of this Bill and analyzing the existing law, it is submitted that in view of the value the Bill will add to alleviation of poverty and hunger in Kwara State, the Bill is desirable and worth *consideration by the Kwara State House of Assembly. Most importantly, that* by the aforementioned Supreme Court decisions, the House also has constitutional authority to enact the same.

CHILD LABOUR IN KWARA STATE: CAUSES AND IMPLICATIONS

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1. INTRODUCTION

Child labour is any labour related engagement which deprives children of their childhood, their potential, their dignity and which is harmful to their physical and mental development. Child labour manifests in several forms including but not limited to child trafficking and exploitation, the use of children as domestic helps or for street hawking or trading. Child trafficking is a situation where a child is being moved from one place to another for the purpose of using him or her as labourer or child-prostitution. This is usually done by an agent who might have promised the parent of such a child or the child as the case may be of better life or some enthralling monetary or kind rewards. This is similar to child exploitation as the proceeds of the work done by the child is usually collected by such agent without any benefit to the child or parents. In the same vein, street trading or hawking is another form of child labour whereby children are being used to hawk wares along the streets within the community. This opens the children to several forms of abuses which include, but not limited to sexual molestation, motor accident, kidnapping and so on.

There are laws safeguarding the rights of children against any abuse and prohibiting child labour in Kwara state and Nigeria at large. The question then is, why do we still have several cases of child labour and what are the causes of child labour in spite of these laws? The causes of child labour, particularly in Kwara state includes high demand for domestic help, socio-cultural and religious impact, early marriage, illiteracy, family structure and parental neglect, economic benefit and finally non-effectiveness of the existing laws of Kwara state on child labour. One of the major cause that needs urgent attention is social-cultural and religious impacts, and this is because some people see no harm in using their children for work in order to get money to maintain their family since culturally or religiously they are allowed and same has been in practice since time immemorial. The solution to this particular cause may not necessarily be legal in nature as orientations and awareness could suffice.

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