Promoting and Sustaining Social Justice in Nigeria: An Insight from the Principle of the Common Good in Canon Law Jurisprudence

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Abstract

Nigeria, a country endowed with abundant human and natural resources, is unfortunately ravaged by multidimensional poverty due to gross absence of social justice in the country especially in the governance of the country. To turn things around, this paper recommends adherence to social justice through, particularly, the principle of common good under canon law jurisprudence.

Keywords: Canon Law, Human Flourishing, Social Justice, Common Good, Nigeria

1. Introduction

Nigeria's stunted development and growth is rooted in the unfairness inherent in the social, economic, developmental, and political structures of the country, which has resulted in the goods and wealth of the country not being accessible to a vast range of the strata of the society. Instead, a few members of the society that constitute the economic and political elite monopolize a vast proportion of the goods of the society while most persons who constitute the other segments of the society have little or no access to these goods of the society. As a result, human dignity in the country is heavily diminished. Ota and Okechukwu wrote, 'though Nigerian citizens have remained together within the same political space in spite of many challenges, there are obvious cases of inequality and glaring examples of the negation of the principles of social justice by the leadership class.'[1] Otega and Okpan opined that 'governance template in Nigeria promotes inequality and underdevelopment and even when it appears that efforts are made to implement social justice, what obtains in practice is that a few individuals are enriched while the majority are deprived.'[2]Multidimensional poverty ravages the country fueling, in part, the pervasive multidimensional insecurity that has become the order of the day across the length and breadth of the country. Insecurity has made Nigeria a hostile environment for any kind of developmental investment. To redress this unfortunate pathetic situation this paper calls for an embrace of social justice, and a social justice based on the principle of the common good as developed in canon law jurisprudence. The methodology is doctrinal as the paper draws primarily from the social doctrine of the Catholic Church. The paper is divided into 5 parts. Immediately after the introduction is the explanation of key concepts. The key concepts explained in this part are social justice and canon law. The third part examines Nigeria's social justice challenges while the fourth part discusses the relevance of the principle of the common good in achieving social justice in Nigeria. Part five contains the conclusion and recommendations.

Key words: Canon law jurisprudence, common good, Nigeria, social justice

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[1] Ejitu Nnechi Ota and FN Okechukwu, 'Social Justice in Nigeria: A Dialectical Discourse', https://www.researchgate.net/publication/374374290_Social_Justice_in_Nigeria_A_Dialectical_Discourse, accessed on 30th May 2024.

[2] Okinono Otega and Samuel O Okpan, 'Social Justice In Nigeria: Exploring the Dialectics of Good Governance and Socioeconomic Development', https://unidel.edu.ng/cms/uploads/publications/unidel_pub_1680705051. pdf, accessed 25th June 2024.

2. Explanation of Key Concepts

2.1 Social Justice

Unlike the other classifications of justice (commutative, distributive, legal, retributive or procedural)[3] which seek fairness in particular cases in the society, social justice, in addition to seeking justice in particular cases in the society, focuses primarily on fairness in the overall arrangement and structures of the society such that no stratum of the society is deprived of access to the goods of the society.Thus, social justice finds its place in areas like the political, economic, technological, and legal arrangements of the society. By this reach and scope social justice takes the concerns of fairness to the level these other classes of justice do not get to. Commutative justice is concerned with fairness in interpersonal relationships such as contractual relationships.[4] Distributive justice deals with the equitable distribution or allotment of goods, duties, and privileges in agreement with the merits of individuals, and the best interest of society.[5] It sees to it that the society is fair to its individual members by discharging the obligations it owes to them.Legal justice concerns itself with seeing that individual persons are fair to the society by discharging the obligations they owe to the society.[6] Retributive justice comes up in the punishment of offences. It holds that a person who commits certain kinds of wrongful acts, particularly serious crimes deserve to suffer a proportionate punishment.[7]Thus, Duignan defined social justice as 'the fair treatment and equitable status of all individuals and social groups within a state or society.'[8]For *Human Rights Career*, social justice is 'fairness as it manifest in society'[9] and it caters for things like the availability of healthcare, employment, housing, etc.[10] Thus, for Onalu and Okoye, it is 'the fair and equitable distribution of power, resources and obligations in society to all people regardless of race, ethnicity, age, gender, ability, status, sexual orientation or religious or spiritual background.'[11] Social justice aims at securing human flourishing, that is, the wellbeingof all persons and groups of persons in the society.

Social justice is of utmost importance for peace in a country. Peace, in this context, is not absence of war, but rather the satisfaction that comes from the fact that the arrangement and structures of

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[3]John C. Fitzgerald, 'The Natural Law and Social Justice', *The Catholic Lawyer*, Vol 2(2) 1956, p.138. Available at: https://scholarship.law.stjohns.edu/cgi/viewcontent.cgi?article=1080&context=tcl, accessed 26th May 2024; Michelle Maiese and Heidi Burgess**,** **'**Types of Justice'**,** https://www.beyondintractability.org/essay/types_of_justice/**,** accessed 26 May 2024**;** Stanford Encyclopedia of Philosophy, 'Distributive Justice', https://plato.stanford.edu/entries/justice-distributive/, accessed 26th May 2024.

[4] Merriam-Webster Dictionary, 'Commutative Justice', https://www.merriam-webster.com/dictionary/commutative%20justice, accessed 4 July 2024.

[5] Legal Dictionary, 'Distributive Justice', https://legaldictionary.net/distributive-justice/, accessed 4 July 2024.

[6]John C. Fitzgerald, 'The Natural Law and Social Justice', *The Catholic Lawyer*, Vol 2(2) 1956, p.138. Available at: https://scholarship.law.stjohns.edu/cgi/viewcontent.cgi?article=1080&context=tcl

[7] Stanford Encyclopedia of Philosophy, 'Retributive Justice', https://plato.stanford.edu/entries/justice-retributive/, accessed 7 July 2024.

[8]Brian Duignan, 'Social Justice', https://www.britannica.com/topic/social-justice, accessed 26th May 2024.

[9] Cf Human Right Careers, *What does Social Justice mean?*, https://www.humanrightscareers.com/issues/what-does-social-justice-mean/#:~:text=Social%20justice%20is%20fairness%20as%20it%20manifests%20in,more.%20Discrimination%20and%20social%20justice%20are%20not%20compatible, accessed 26th May 2024.

[10] Cf Human Right Careers, *What does Social Justice mean?*, available at: https://www.humanrightscareers.com/issues/what-does-social-justice-mean/#:~:text=Social%20justice%20is%20fairness%20as%20it%20manifests%20in,more.%20Discrimination%20and%20social%20justice%20are%20not%20compatible,

[11]Chinyere Onalu and Uzoma Okoye, **'**Social Justice in Nigeria', https://socialwork.ubc.ca/news/social-justice-innigeria/#:~:text=Nigeria%20ranks%20low%20in%20social%20justice%3B%20it%20currently.girl%20child%20marriage%2C%20female%20gentile%20mutilation%20and%20more, accessed 1st May 2024

the society are such that every class or group of people has fair access to the resources of the society. Social justice calls for an inclusive society in which no strata or group of people in the society are marginalized. In a multi-ethnic and multi-religious country like Nigeria, social justice is a potent recipe for social harmony. It is a catalyst for patriotism, social stability, and economic development. These are benchmark conditions for human flourishing. The promotion of social justice is a responsibility of every individual, group, institution and organization in the society. Canon law obliges every Catholic to promote social justice.[12]But preeminently, it is the duty of the political authority to see that social justice is maintained in the society because of its superior leadership role in the society.

Unfortunately, Nigeria has continued to rank low on social justice in the world.[13] Factors of social injustice in the country include tribalism or ethnicism, and Christian-Muslim divide. Promoting and sustaining social justice in Nigeria is very germane for bringing Nigeria to the track of social stability, economic development and vibrancy, and human flourishing. This is possible with the principle of the common good.

The term and concept of 'social justice' was developed in the 19th century by Luigi Taparelli d'Azeglio, an Italian Jesuit priest[14] as he tried to develop a conservative understanding of justice which legitimizes aristocratic rule by rooting it in the perceived natural inequalities in individuals.[15] Later, in the 19th century, Catholic Church took up the concept and it became the pivot of its social teaching in the face of the many social consequences of the Industrial Revolution.[16]

b. Canon law

Canon law, (Latin, *iuscanonum,* from the Ancient Greek, *kanon*, meaning a 'straight measuring rod, ruler') refers to the complex juridical system that regulates the faith, life and actions of the Church in the world. For Ladislaus M. Orsy, it is the 'body of laws made within certain Christian churches (Roman Catholic, Easter Orthodox, independent churches of Eastern Christianity, and the Anglican Communion) by lawful ecclesiastical authori'.;ty for the government both of the whole church and parts thereof and of the behaviour and actions of individuals.'[17] According to Achinike it is, "a complex of norms given (enacted, proposed or approved) by a competent ecclesiastical authority for the right ordering of the Church and its affairs, to be observed by the faithful in order to attain their end, which is salvation of souls and eternal life."[18] The focus of this paper is Canon law of the Catholic Church.Sources of Canon law are classified into principal and secondary.[19] Principal sources are normative provisions from the Sacred Scripture, Tradition, Councils, and the actions of the Roman Pontiff. The secondary sources consist of the normative provisions of civil law; theological texts; monastic rules; fathers, saints, doctors and authors; and

[12] Can. 222 §2, 1983 Code of Canon Law.

[13]UNDP: Human Development Report, 'Nigeria Multidimensional Poverty Index (2022)', https://www.undp.org/nigeria/publications/nigeria-multidimensional-poverty-index-2022, accessed 30 June 2024.

[14]Thomas Patrick Burke, 'The Origins of Social Justice: TaparelliD'azeglio',Https://Isi.Org/Intercollegiate-Review/The-Origins-Of-Social-Justice-Taparelli-Dazeglio/, accessed 26/05/2024.

[15] Brian Duignan, 'Social Justice', https://www.britannica.com/topic/social-justice, accessed 26 May 2024.

[16]*Ibid.*

[17]Ladislas M. Orsy, *Canon Law*, available at: https://www.britannica.com/topic/canon-law, accessed 30th May 2024.

[18] E.C. Achinike, *Why Law in the Church?: An Introduction to Canon Law and General Principles of Law*, (Wisdom Publishers: Ibadan-Nigeria, 1995) 3-4.

[19] Brian Edwin Ferme, *Introduction to the History of the Sources of Canon Law: The Ancient Law up to the Decretum of Gratian*, (Wilson & Lafleur: Quebec,2007) 14-23

historical facts.[20] The Roman Pontiff who is at the apex of the hierarchy of competent ecclesiastical legislators is the supreme legislator with a legislative competence over the universal church. Prime examples of the universal competence of the Roman Pontiff are the 1983 Code of Canon law (for the Latin Church) and the 1990 Code of Canons of the Eastern Churches, and their amendments promulgated by Popes.[21]

The developmental journey of Canon law which took off from the normative dispositions of Jesus Christ continued through the Middle Ages reflecting the different times and challenges the church passed through such as the schism of 1054 and the Reformation of the 16th century. Thus, Orsy wrote, 'Canon law has had a long history of development throughout the Christian era. Not a static body of laws, it reflects social, political, economic, cultural, and ecclesiastical changes that have taken place in the past two millennia.'[22]Besides the normative prescriptions of Christ and the apostles, the developmental history of canon law revolves majorly on the collection of the normative decrees and constitutions of the popes which reached the highest point of systematization and organization with the 1917 Code of Canon Law, the first ever universal code of canon law. The revision of this code came with the 1983 Code of Canon law promulgated by St. Pope John Paul II on January 25, 1983 with the Apostolic Constitution *Sacrae Disciplinae Leges* (Of the Sacred Discipline of Law). On October 18, 1990 St Pope John Paul II promulgated the Code of Canons of the Eastern Churches (*Codex Canonum Ecclesiarum Orientalium*, or CCEO), which is the first complete code of the Eastern Catholic Churches.

Subjects regulated by the 1983 Code of Canon law include general norms of ecclesiastical laws, general decrees and instructions, physical and juridical persons, ecclesiastical offices, people of God and the teaching office of the Church. Other subjects include the sacraments, the temporary goods of the Church, sanctions in the church and processes.

Canon law has a vast array of provisions on social justice bearing in mind the copious normative provision from the Sacred Scripture, Tradition, and the dispositions of the Popes over the years.[23] These dispositions are found generally in the social doctrine of the Church. The Church's teaching on social justice is not a teaching consigned only to the members of the Catholic Church. Instead, it is a teaching directed to all men and women of good will, in the context of the Church's co-responsibility with other members of the human community for peace on earth. Before going to the exposition of the principle of the common good, it is good we examine the social justice challenges in Nigeria.

3. Nigeria's Social Justice Challenges

The ideal of social justice can be said to have received explicit attention in Nigerian constitutionalism inchaptersII and IV of the 1999 Constitution of the Federal Republic of Nigeria

[20]*Ibid.*

[21] The expressions 'Latin church' and 'Eastern Churches' in the Catholic Church refer to the different patriarchal communities inside the one Catholic Church under the headship of the Pope as the Vicar of Christ and successor of St. Peter. The Latin Church is a portion of the worldwide Catholic body found mostly in the western part of the worldand is under the Roman Pontiff as the Patriarch of the Latin patriarchate. The Eastern Churches, on the other hand, represent the other four patriarchates in the universal Catholic Church (namely, Constantinople, Alexandria, Antioch, Jerusalem), and any fractions broken away from them.Cfr. New Adent Encyclopedia, 'Latin Church',https://www.newadvent.org/cathen/09022a.htm, accessed 8 July 2024.

[22] Ladislas, *supra* note 18.

[23]CFr Can. 222 §2, 1983 Code, which while obliging every Christ's faithful to work for social justice states, 'They are also obliged to promote social justice and, mindful of the Lord's precept, to help the poor from their own resources.'

(CFRN). While chapter II is titled *Fundamental Objectives and Directive Principles of State Policy*, chapter IV is titled *Fundamental Rights*. Chapter II runs from section 13 through section 24, and chapter IV, covers sections 33 to 46. This paper elected to examine first the social justice challenges vis-à-vis the fundamental rights because the fundamental rights are directly justiceable unlike the provisions of the chapter II CFRN.

3.1 Social Justice and Chapter IV of 1999 CFRN (Fundamental Rights)

The fundamental rights, contained in chapter IV of 1999 CFRN, constitute the point of departure in the constitutional resolve to guarantee social justice in Nigeria. These rights are fundamental because they belong to human beings by their nature, that is, they were not given to them by the state or society. The state only recognized them. In other words, 'they attach to the person of the human being and cannot be detached from him.'[24]The chapter IV of the 1999 CFRN which covers sections 33-46, provides the following rights: right to life (s. 33), right to dignity of human person (s. 34), right to personal liberty (s. 35), right to fair hearing (s. 36), right to private and family life (s. 37), right to freedom of thought, conscience and religion)s. 38), right to freedom of expression and the press (s. 39), right to peaceful assembly (s. 40), right to freedom of movement (s. 41), right to freedom from discrimination (s. 42), and right to acquire and own immovable property anywhere in Nigeria (s. 43). Sections 44-46 do not contain rights, but contain instead provisions related to the exercise of the rights. Section 44 deals with compulsory acquisition of rights while section 45 deals with restriction on and derogation from fundamental rights. Then, section 46 provides for the enforcement of the rights. From the perspective of social justice, a high point of the fundamental rights is that they a directly justiceable quite unlike the provision of chapter II of the 1999 CFRN. Action can lie in court to enforce and redress a breach of any of the fundamental rights. To this extent social justice can be redressed in court in Nigeria.

However, long judicial process and judicial corruption constitute serious setbacks to securing social justice through the court in Nigeria. Challenge of long judicial process: frustrates people and is inducement for ADR and self-help. Concerning frustratingly long judicial processes, Monye, Obiagbaoso and Obidegwu wrote:

> In Nigeria today, the justice system is fraught with a lot of challenges and many people may easily be discouraged and or reluctant to take their matters to court for adjudication due to the time consuming nature(sic) of court proceedings. In many instances by the time the matter is determined by the court, the litigants may have completely lost interest or irrecoverable business or economic value and in no way would have benefitted from resorting to the courts.[25]

On judicial corruption, Jimoh *et al* reported:

> Nigerian judiciary system is not only run by corrupt judges but by a group of thieves, because the judiciary that is supposed to be the hope of the common man is now an agent of oppression, subjugation and deprivation of justice in the Nigerian

[24] Jude O. Ezeanokwasa, *The Legal Inequality of Muslim and Christian Marriages in Nigeria: Constitutionally Established Judicial Discrimination*, (2011: The Edwin Mellen Press, New York) 130.

[25]Joan Monye, Patience Obiagbaoso, Richard Obidegwu, 'Where are we in Curbing Delaysin Administration of Justice in Nigeria?', https://punuka.com/where-are-we-in-curbing-delays-in-administration-of-justice-in-nigeria/, accessed 7 July 2024.

> society. In fact, I have lost hope in the Nigerian judicial system because justice in Nigeria is for sales and for the highest bidder.[26]

3.2 Social Justice and Chapter II of 1999 CFRN (Fundamental Objectives and Directive Principles of State Policy)

The 1979 CFRN first introduced this chapter in the Nigerian constitutional historyembodying in it the ideal of social justice as contained in the International Covenant on Economic, Social and Cultural rights. While sections 14 and 23 explicitly talk of social justice. Section 14(1) provides that 'The Federal Republic of Nigeria shall be a State based on the principles of democracy and social justice.'To particularly secure social justice in the administration of the tiers of government in the country, subsections 3 and 4 of section 14 created the principle of Federal Character to be applied in the affairs of the Federal and State governments respectively. Subsection 3 states:

> The composition of the Government of the Federation or any of its agencies and the conduct of its affairs shall be carried out in such a manner as to reflect the federal character of Nigeria and the need to promote national unity, and also to command national loyalty, thereby ensuring that there shall be no predominance of persons from a few States or from a few ethnic or other sectional groups in that Government or in any of its agencies.

In its turn, subsection 4 provides:

> The Government of a State, a local government council, or any of the agencies of such Government or council, and the conduct of the affairs of the Government or council or such agencies shall be carried out in such manner as to recognize the diversity of the people within its area of authority and the need to promote a sense of belonging and loyalty among all the peoples of the Federation.

To ensure that the principle of federal character is maintained at the federal level of government, the Federal Character Commission is established by section 153(1)(c) of the Constitution. To further bolster the strength of this Commission in ensuring social justice in the operations of the Federal Government, the Commission is created to be independent, that is, it shall not be subject to the direction or control of any other authority or person[27] except as provided by the Constitution.[28] However, there is no such a commission for a State. On its part, section 23 states that 'The national ethics shall be Discipline, Integrity, Dignity of Labour, Social Justice, Religious Tolerance, Self-reliance and Patriotism.'

Section 17(1) provides the social order to be founded on the ideals of freedom, equality and justice. In furtherance of the social order, it insists that every citizen have equality of rights, obligations and opportunities before the law.[29] It provides also that the sanctity of the human person shall be recognized and human dignity shall be maintained and enhanced.[30] To still guarantee this social order, it provides that the exploitation of human or natural resources in any form whatsoever for

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[26] Buhari Edun Jimoh, Abdullateef Abiodum ATIKU, Isiaka Monsurat and OjiezeleOriabure Monday, 'Corruption in the Nigerian Judicial System: A Critical Discourse',https://www.researchgate.net/publication/369453756_Corruption_in_the_Nigerian_Judicial_System_A_Critical_Discourse, accessed 2 July 2024.

[27] S. 158(1), 1999 CFRN.

[28] Third Schedule, Pt 1, section C, 1999 CFRN.

[29] S. 17(2)(a).

[30] S. 17(2)(b).

reasons, other than the good of the community shall be prevented.[31] It provides also for the independence, impartiality and integrity of courts of law as well as easy accessibility thereto.[32] Section 17(3) makes social justice a core element of state policy. In this regard, it states that all citizens, without discrimination on any group whatsoever, have the opportunity for securing adequate means of livelihood as well as adequate opportunity to secure employment.[33] It provides further that the conditions of work are just and human, and that there are adequate facilities for leisure and for social, religious and cultural life.[34] It states also that the health, safety and welfare of all persons in employment are safeguarded and not endangered or abused. It ensures social justice in labour relations by ensuring that there is equal pay for equal work without discrimination on account of sex, or on any other ground whatsoever.[35] Social justice promoted by section 17(3) extends to children, young persons and the aged. It states that children, young persons and the aged are protected against any exploitation whatsoever, and against moral and material neglect.[36] It provides also for assistance to members of the public in deserving cases or other conditions of need.[37] It caters also for family life by encouraging the evolution and promotion of family life.[38]Beyond these particular circumstances, the social justice value guaranteed by the Chapter II are contained in the other fundamental policy objectives like the political,[39]economic,[40] educational,[41] foreign,[42] environmental,[43] and the cultural.[44]Section 13 makes it the duty and responsibility of all organs of government, and of all authorities and persons, exercising legislative, executive or judicial powers, to conform to, observe and apply the provisions of this Chapter of the Constitution.

A major setback to the realization of the lofty obligations and rights put out by this Chapter in furtherance of social justice is that they are not directly justiceable. No action can be entertained in court in Nigeria simply because any of the obligations was not discharged unlike in India where similar constitutional provisions are justiceable. Section 6(6)(c) of the 1999 CFRN states:

> The judicial powers vested in accordance with the foregoing provisions of this section shall not, except as otherwise provided by 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.

All the same, the provisions of Chapter II of the 1999 Constitution are indirectly justiceable. The phrase 'except as otherwise provided by this Constitution' implies that its non-justiceability is not

[31] S. 17(2)(d).
[32] S. 17(2)(e).
[33] S. 17(3)(a).
[34] S. 17(3)(b).
[35] S. 17(3)(e).
[36] S. 17(3)(f).
[37] S. 17(3)(g).
[38] S. 17(3)(h).
[39] S.15
[40] S. 16.
[41] S. 18.
[42] S. 19
[43] S. 20.
[44] S. 21.

absolute. It is justiceable if the Constitution provides otherwise under the doctrine of the supremacy of the Constitution.[45]In the exercise of its legislative powers under section 4 of the Constitution, the legislature can render justiceable a provision of Chapter II if an act or law is enacted on it.[46]Again, a provision is Chapter II can be indirectly justiceable through the vehicle of section 12 of the 1999 CFRN which provides for the domestication of international covenants and treaties. A provision in Chapter II that is also contained in an international treaty or convention becomes justiceable if the relevant treaty is domesticated. However, action will lie in court on the strength of the domesticated treaty and not on Chapter II. For instance, while no action can lie for environmental protection based on section 20 of the 1999 Constitution, an action can lie for environmental protection based on section 24 of the African Charter on Human and Peoples' Rights (Domestication and Enforcement) Act which Act domesticated the African Charter on Human and Peoples' Rights.

The indirect justiceability of Chapter II notwithstanding, the state of social justice in Nigeria remains increasingly depressing and destabilizing to human flourishing and development.

St. Pope John Paul II, during his second visit to Nigeria in 1998 captured the many blessings of God on Nigeria and enjoined on all Nigerians to work to achieve social justice in the country. He said:

> God has blessed this land with human and natural wealth, and everyone has to ensure that these resources are used for the good of the whole people. All Nigerians must work to rid the society of everything that offends the dignity of the human person and violates human rights. This means reconciling differences, overcoming ethnic rivalries, and injecting honesty, efficiency and competence in the art of governing…Your country has the resources to remove the obstacles that stand in the way of progress and to build a society of justice and harmony. [47]

Without the human and natural resources growing less, the above call for social justice has remained significantly unhearkened to. Over twenty-five years after this visit, Nigeria has majorly regressed in all the indices of social justice highlighted above by the Pope. There is still a wide spread infringement of human rights in the country covering breaches of freedom of expression, unlawful attacks and killings by security officers, torture and other forms of ill-treatment, and breaches of economic, social and cultural rights.[48]Ethnic rivalry is seen as a major fault-line of the country that has impacted negatively on social justice. Analysing the effects of this social malaise, *This Day Newspaper* wrote:

> 'Ethnic conflicts have affected the government and the people generally and have resulted to political and economic instability, weakened patriotism, breed

[45] S 1(3) 1999 CFRN. Cfr *Federal Republic of Nigeria v Aneche& 3 Ors*[(2004) All NLR 203 (2004) LCN/3183 (SC)] where Niki Tobi (JSC) while interpreting s. 6(6)(c) of the 1999 CFRN stated: "In my view section 6 (6) (c) of the Constitution is neither total nor sacrosanct as the section provides a leeway using the words 'except as otherwise provided by this Constitution'."

[46]*Archbishop Anthony Olubunmi Okogie [Trustee of Roman-Catholic School v. Attorney-General of Lagos State*, (1981) 1 NCLR 420.

[47]CfrOkinono Otega and Samuel O Okpan, 'Social Justice In Nigeria: Exploring the Dialectics of Good Governance and Socioeconomic Development', https://unidel.edu.ng/cms/uploads/publications/unidel_pub_1680705051.pdf, accessed 25th June 2024.

[48] Amnesty International, 'Nigeria 2023', https://www.amnesty.org/en/location/africa/west-and-central-africa/nigeria/report-nigeria/, accessed 29th June 2024.

> suspicion, lack of trust and true relationship among different ethnic groups in the country, it is believed that responsive and responsible government would restore confidence among the population and promote de-Ethnicisation policy among the competing ethnic groups in Nigeria".[49]

Religious rivalries and intolerance are seen as constituting a major fault-line of the country. Atoi and Babale wrote:

> In fact, there is no gainsaying that it has eaten deep into the fabric of the Nigerian state in contemporary times because its manifestation is noticeable in nearly every strata of the country's public life. Inter-religious and socio-political relationships in Nigeria have been soiled with severe religious antagonism, hatred and suspicion because of the issue of religious claims and intolerant attitude of adherents of Islam and Christianity toward other faith traditions.[50]

Honesty in leadership suffers greatly in the country giving rise to pervasive corruption. According to Otega and Okpan, 'Nigeria's approach to leadership is troubling. In Nigeria, the essential objective of accepting an administrative position is self-advancement.'[51] Most people in public offices exploit the offices for their own benefits or the benefits of their families, 'god-fathers or god-mothers', tribes, religions and other such narrow circumscriptions. Nigeria has not fared any better on efficiency and competency in governance. According to Assalamualaikum:

> the combination of environmental, social (ethnic and religious bigotry, widespread of poverty), economic (inadequate infrastructure and poor economic policies), and political factors (corruption and moral decay of governance) have negatively impacted the Nigerian public administrators, making them to function below expectation.[52]

a. Since then, the combination of environmental, social (ethnic and religious bigotry,
b. widespread of poverty), economic (inadequate infrastructure and poor economic policies),
c. and political factors (corruption and moral decay of governance) have negatively impacted
d. the Nigerian public administrators, making them to function below expectation.

[49]This Day Newspaper**, '**Analysing Ethnicity, Ethnic Crises in Nigeria and its Management', https://www.thisdaylive.com/index.php/2021/04/21/analysing-ethnicity-ethnic-crises-in-nigeria-and-its-management/, accessed 28th June 2024.

[50]Ewere Nelson Atoi and Yakubu Kume Babale, 'Religious Intolerance and the Quest for Progressive Change in Nigeria', A Journal of Contemporary Research, (2021), 18 (4): 200-220, http://creativecommons.org/licenses/by-nc-nd/4.0

[51]Okinono Otega and Samuel O Okpan, 'Social Justice In Nigeria: Exploring the Dialectics of Good Governance and Socioeconomic Development', https://unidel.edu.ng/cms/uploads/publications/unidel_pub_1680705051.pdf, accessed 25th June 2024.

[52]Isma'il Ibrahim Assalamualaikum, 'Public Administration in Nigeria: The Quest for Efficiency and Productivity in the Civil Service', https://www.researchgate.net/publication/345813673_Public_Administration_in_Nigeria_The_Quest_for_Efficiency_and_Productivity_in_the_Civil_Service_A_Paper_Prepared_for_Presentation_at_the_National_Conference_on_Local_Government_and_Sustainable_Develop

Summarising the poor state of social justice in Nigerian, Otega and Okpan, wrote further that:

> One of the major setbacks in achieving social justice whether it is ending religious intolerance, achieving gender equality, protecting the rights of minorities, ending "awuff"(free of charge) syndrome in all its ramifications, improving the plight of internally displaced persons and ultimately ameliorating poverty is the lack of ethical leadership displayed by those in political power. We ceaselessly have a subset of individuals who climb to political force who genuinely come up short on the good and moral compass expected to lead.[53](Bracket added)

They identified, and rightly so, ethical leadership as a quality that if found in Nigerian political class, the social justice condition of Nigeria would improve. This diagnosis is implied in the diagnosis earlier given by Chinua Achebe, a Nigerian literary icon who in his book, *The Trouble with Nigeria*, identified lack of ethical leadership as the problem with the country. A key principle for generating ethical leadership is the principle of the common good. And the next part of the paper examines this principle and its relevance for social justice in Nigeria.

4. The Relevance of the Principle of the Common Good in Achieving Social Justice in Nigeria.

4.1 Meaning of the Principle of the Common Good

The principle of the common good is one of the four principles of social justice in canon law jurisprudence.[54] The other principles are human dignity, subsidiarity, and solidarity.[55]Human flourishing being the proper goal of a society, these principles constitute the core pillars of the social doctrine of the Catholic Church, which is oriented to achieving human flourishing through justice and peace. The common good refers to 'the sum total of social conditions which allow people either as groups or as individuals, to reach their fulfilment more fully and more easily.'[56] It is the totality of the social conditions which make it possible for people in a society whether as individuals or groups to actualize their dreams more fully and more easily. This principle is aware that the material constituents of this social conditions are not constant. They change from time to time. The social conditions necessary for human fulfilment in the 19thcentury are obviously not the same with those of the present 21st century. For instance, internet which has revolutionized human interactions today was not there in the 19th century. Thus, 'the demands of the common good are dependent on the social conditions of each historical period and are strictly connected to respect for and the integral promotion of the person and his fundamental rights.'[57] The common good is not the simple sum of the particular goods of each subject of a social entity.[58] In other words, it is not the aggregate of the totality of the goods of each member of a community because such goods fundamentally remain personal and individual. On the other hand, the common good belongs to everyone and to each person at the same time.[59]The common good is "'common' because it is

[53]Okinono Otega and Samuel O Okpan, 'Social Justice In Nigeria: Exploring the Dialectics of Good Governance and Socioeconomic Development', https://unidel.edu.ng/cms/uploads/publications/unidel_pub_1680705051.pdf, accessed 25th June 2024.
[54]Cfr Pontifical Council for Justice and Peace, *Compendium of the Social Doctrine of the Church,* par 160
[55]*Ibid.*
[56]*Ibid*. par 164.
[57]*Ibid.* par 166.
[58] *Ibid*. par 164.
[59]*Ibid.*

indivisible and because only together is it possible to attain it, increase it and safeguard its effectiveness, with regard to the future."[60]

The principle of the common good finds its ontological basis in the fact that the human person is a relational being, otherwise, a social being, who cannot find fulfilment in himself all alone without others. Instead, he finds fulfilment in his existence 'with' others and 'for' others.[61] In existing 'with' others and 'for' others a human person derives support and assistance from others, and vice versa. Existing 'with' others and 'for' others reflects the social maxim of 'give and take' that underpins a harmonious and supportive interpersonal human relationship. The truth of human fulfillment arising from existing 'with' others and 'for' others does not mean that a person should live with others at various levels of social life, but rather that a person should 'seek unceasingly-in actual practice and not merely at the level of ideas – the good, that is, the meaning and truth, found in existing forms of social life.'[62] The common good therefore requires each person to seek always the good or meaning and truth in the forms of social life such as the family, intermediate social groups, associations, enterprises of economic nature, cities, regions, States, community of peoples and nations.[63] The meaning and truth in the forms of social life are sought as guide for concretely dealing with those forms of social life. Grasping the meaning and truth of the forms of social life demands asking the ultimate questions about these forms of social life. For instance, it is the meaning and truth of being a young person or a student would determine and guide the best way to relate with a young person or a student. Hence, the *Compendium of the Social Doctrine of the Church* (CSDC) concludes that 'A society that wishes and intends to remain at the service of the human being at every level is a society that has the common good – the good of all people and of the whole person – as its primary goal.'[64]

4.2 The Common Good as a Social Responsibility

As a responsibility of any society that is committed to the well-being of the human person, common good turns to be the responsibility of every member of the society and particularly the political community.

4.2.1 The Common Good: Responsibility of Every Member of the Society

The concrete demands of the common good are not uniform in all places at the same time. They vary depending on the social conditions in every historical epoch. This notwithstanding, in all times and places they are strictly connected to respect for and the integral promotion of the human person and his fundamental rights. These demands generally concern 'the commitment to peace, the organization of the State's powers, sound juridical system, the protection of the environment, and the provision of essential services to all.'[65] The common good being a common property that belongs to everyone and to each person, its attainment is similarly the responsibility of everyone, each according to his abilities. Every member of the society has something to contribute, in one way or the other, to these elements of the common good. Fairness is an ingredient of peace. There will be peace in the society if people treat others fairly. The abusive and dehumanizing structures of state powers would crumble if there were no people that were opposed to the fair treatment of people. Similarly, it is human beings that are responsible for oppressive judicial systems, degraded

[60] *Ibid.*
[61] *Ibid.* par 165.
[62] *Ibid.*
[63] *Ibid.*
[64] *Ibid.*
[65] *Ibid*. par. 166.

and polluted environment, and denial of the essential services to all. These anti-social justice measures would crumble if the persons responsible for them change their hearts. The fact that the demand of the common good belongs to everyone creates the ethical demand for fairness in the distribution of created goods to arrest today's 'gravest evils due to the huge disparity between the few exceedingly rich and the unnumbered propertyless'.[66]

4.2.2 The Common Good: Tasks of the Political Community

It is not only the responsibility of individual members of the society to work for the common good. It is equally that of the State, that is, the political community, given that the reason for the existence of the political authority is the attainment of the common good. The State bears the fundamental duty of guaranteeing the coherency, unity and organization of the civil society of which it is an expression so that the common good can be attained with the contribution of every citizen. Without the State discharging this basic role the efforts of individuals and intermediate groups towards the common good cannot yield any significant result. Individual citizens and intermediate groups, like families and associations, cannot achieve by themselves alone their full development. The State, therefore, is indispensable, and the duties of the State are discharged by political institutions whose reason for existence is 'to make available to persons the necessary material, cultural, moral and spiritual goods.'[67]These goods, however, must be attainable in any time and place since 'the goal of life in society is in fact the historically attainable common good.' [68]

Consequently, to secure the common good, it is the duty of the government to harmonize the different sectoral interests with the requirements of justice. Sectoral interests are the interests of the various individuals, strata, groups and associations in the civil society. Balancing the interests of these societal segments is recognized as one of the most delicate responsibilities of public authorities for the attainment of peace. This all-important duty of reconciling the interests of the various individuals and segments of the society bears a particular demand on democratic countries where often issues are resolved on the principle of majority. Reconciling the interests of the various individuals and segments of the society demands that the common good of the country should not be determined solely on the majority principle 'but also according to the effective good of all the members of the community, including the minority.'[69] From the perspective of social justice the utilitarian principle of majority is exclusionary of the minority who legitimately need to be cared for by the State. The majority principle, unfortunately, legitimizes the marginalization of a section of the society, which is completely unfair and anti-peace.

As important as the common good of a society is, it is not an end in itself. It is a means to a higher goal. It has a value only in reference to two things: first, the attainment of the ultimate ends of the person, and, second, the universal common good of the whole of creation. The ultimate end of the human person and the created universe is God, the creator. He created the human person in his image and likeness.[70]The fact that human beings and created world have their ultimate end in God creates the moral imperative of never depriving the common good of its transcendent dimension. Canon law jurisprudence sees the transcendent dimension of the common good reach its fullness by virtue of faith in Jesus's Passover or resurrection which opens humanity to salvation, its true common good. Seen from this light, human history, which embraces the personal and collective

[66]*Ibid.*par. 167.
[67]*Ibid.*par. 168.
[68]*Ibid.*
[69]*Ibid.* par. 169.
[70] Gen. 1:26-27.

effort to elevate the human condition, begins and ends in Jesus. Consequently, the common good should not be given a purely historical and materialistic vision that would reduce it to a simple socio-economic well-being, but should be connected to its transcendent dimension, which is its most intimate reason for existing.[71]

4.2.3 The Common Good and the Universal Destination of Goods

One of the many implications of the common good is the principle of the universal destination of goods. In the immediate foregoing part of this paper, we noted that the common good has its transcendent and ultimate end in God who created both human beings and the material world. God created the world with all it contains for all human beings[72] so that all created things would be shared fairly under the guidance of justice tempered by charity.[73] The principle of the universal destination of goods is therefore anchored on the fact that the earth is entrusted to the whole human race for the sustenance of its members without excluding anyone. From the principle of the universal destination of goods arises the universal right to use the goods of the earth, which corresponds to the right of each person to have access to the level of well-being necessary for his full development.[74] This right in turn is the first principle of the entire ethical and social order, and also a distinguishing principle of the Catholic social doctrine.[75]

The universal right of access to the earth's goods, which is captured by Universal Declaration of Human rights on economic rights,[76]is a natural right written in human nature and not a right of positive law subject to changing times and places. It is the right of every human person to use the goods of the earth. It has priority over any human intervention concerning goods, it has priority over any legal system concerning earth's goods, and it has priority over any economic or social system or methods of sharing the earth's goods.[77] In other words, any legal system, economic or social system, or methods of distributing earth's goods that denies any human person the access to the goods of the earth offends this grundnorm. Thus, all other rights whether property rights or the right to free trade must defer to the norm of the universal destination of goods. They must respect it and promote its application.

However, the universal destination of goods and everybody's right of access to the use of the goods of the earth does not mean that 'everything is at the disposal of each person or of all people or that the same object may be useful or belong to each person or people.'[78] Certainly not. For the universal commons, that is, the goods of the earth, to be beneficial to every human person, there is the need for regulated interventions, that is, 'interventions that are the result of national and international agreements and a juridical order that adjudicates and specifies the exercise of this universal right to the use of the goods of the earth. The national juridical order is saddled with the responsibility of regulating the exercise of the right of access of persons to the goods of the earth within its jurisdiction. On the other hand, international law regulates the same subject in the international community. It is in this way that the principle of the universal destination of goods is put into concrete practice in the different socio-cultural and political environments.

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[71]Cfr. Pontifical Council for Justice and Peace, *Compendium of the Social Doctrine of the Church,* par 170.
[72] Gen. 1.28-29
[73]Cfr.Pontifical Council for Justice and Peace, *Compendium of the Social Doctrine of the Church,* par 171.
[74]*Ibid.* par 172.
[75]*Ibid.*
[76] Art 22, Universal Declaration of Human Rights.
[77]Cfr Pontifical Council for Justice and Peace, *Compendium of the Social Doctrine of the Church,* par 171.
[78]*Ibid*. par 173.

4.2.4 The Common Good, the Universal Destination of Goods and Private Property

The principle of the universal destination of the goods of the earth extends also to the universal destination of private property of an individual. A private property was first of all a part of the goods of the earth before becoming privately owned by means of work and the use of the gift of intelligence.[79] Work and the use of the gift of intelligence account for the origin of individual property and other forms of private ownership of goods, which guarantee a person the highly needed sphere for the exercise of his personal family and autonomy.[80] It is for this that private ownership of goods is considered as an extension of human freedom, and forms one of the conditions for civil liberty and essential element of an authentically social and democratic economic policy.[81] It guarantees a correct social order. Given the importance of private property for both personal and socio-economic security, canon law jurisprudence demands that ownership of goods be equally accessible to all and not to a selected few.[82] It cautions, however, that the access to ownership of goods to all persons does not include what it refers to as 'common and promiscuous dominion'.[83] 'Common and promiscuous dominion' would refer to an unregulated access to ownership of goods by everybody, this kind of situation would be chaotic. The right to own a home, for instance, does not translate to a right to move into any house one finds unoccupied.

At the same time, canonical jurisprudence lays great emphasis on the fact that, important as private property is, it is not an end in itself, but rather, a means. The right to private property is not absolute or untouchable. It is a right subordinated to the right to common use of the goods of the earth. It is exercised with the orientation towards the common good. It has a social function. This means that, man 'should regard the external things that he legitimately possesses not only as his own but also as common in the sense that they should be able to benefit not only him but also others.'[84] From this angle the universal destination of private goods implies obligations on the way and manner owners of goods ought to use them. An individual should, in using his resources, see that they benefit not only himself or his family but also the common good. This is reflected in acts of charity and the principle and doctrine of corporate social responsibility. Owners who try to absolutize their goods idolize them,[85] and they become in turn owned and enslaved by their goods. For a material property, whether as individual or community property, to have its proper function as means for the advancement of individuals or peoples, it needs to be recognized as being dependent on God the creator and then be directed to the common good.[86]

4.2.5 The Common Good and the Preferential Option for the Poor

The principle of the universal destination of goods calls for the preferential option for the poor. Since the goods of the earth are given for the sustenance of the entire humanity and since the regulatory interventions, economic and social systems should be such as to grant to every person fair access to the goods of the earth, the poor, the marginalized and those whose living conditions interfere with their proper growth need to be particularly cared for. This is what preferential option for the poor stands for. It enjoys a primacy of place in Christian charity. As far as every Christian

[79] *Ibid.* par 176.
[80] *Ibid.*
[81] *Ibid.*
[82] *Ibid*.
[83] *Ibid.*
[84] *Ibid*, par. 178.
[85] Cf. Matt 6:24, 19:21-26' Lk 16:13.
[86] Cfr.Pontifical Council for Justice and Peace, *Compendium of the Social Doctrine of the Church*, par 181.

seeks to imitate the life of Christ, which was a life of concern and love for the poor,[87] he is affected by the demand for preferential option for the poor. Poverty in this context refers to material poverty and the numerous forms of cultural and religious poverty. Besides imitating the life of Christ, preferential option for the poor is a social responsibility arising from the universal destination of the goods of the earth. It is a responsibility which in principle falls on every member of the society. Concretely, 'it applies to our manner of living, and to the logical decisions to be made concerning the ownership and use of goods.'[88]The social question, which today has assumed worldwide perspective, includes issues like insecurity, migration, effects of capitalism in the world, the impact of the scarcity of waged work, and the degree to which the dispossessed poor bear the brunt of the crisis.[89]For this the preferential option for the poor calls for attention to the multitudes of the hungry, the needy, the homeless, those without healthcare and above all, those without hope of a better future.[90] These situations of poverty are sometimes, if not often, results of socio-cultural structures, and politico-economic policies. True preferential option for the poor in such situations would demand changing these structures and policies.

5. Conclusion and Recommendations

The principle of the common good is a principle of social justice espoused by the social doctrine of the Catholic Church. It is a principle of ethical living which is rooted ultimately in the fact that God created humanity in his image and likeness, and he also created the earth which he entrusted to humanity for the sustenance and wellbeing of everyone. The crux of social justice is fairness in the arrangement, regulation and operation of the society such that every person and member of the society has access to the goods of the society necessarily for his actualization and fulfilment. The principle of the common good promotes this kind of social arrangement, regulation, and operation. Unfortunately, Nigeria is not anywhere near being a society of social justice. Despite the abundance of human and natural resources with which it is blessed by the creator, millions of people wallow in multidimensional poverty.[91] Legal provisions that were designed to ensure and guarantee social justice in the country such as chapters II (Fundamental Objectives and Directive Principles of State Policy) and IV (Fundamental Rights) are not taken seriously by government, thus resulting to the condition of impunity that is felt everywhere in the country.

With the principle of the common good, the government is called upon to acknowledge the fact that the resources of the country belong to all Nigerians and so administer them fairly to all members of the society without favour or discrimination. Individuals are, on their part, called to appreciate the social dimension of their private property by which they should be mindful of contributing to the common good through assisting the less privileged ones around them through works of charity.

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[87] *Ibid*. par 182.

[88] *Ibid*.

[89] Jan Breman, Kevan Harris, Ching Kwan Lee and Marcel van der Linden, 'The Social Question in the Twenty-First Century: A Global View', https://www.degruyter.com/document/doi/10.1515/9780520972483/html?lang=en, accessed 24 June 2024.

[90] Cfr. Pontifical Council for Justice and Peace, *Compendium of the Social Doctrine of the Church*, par 182.

[91] UNDP: Human Development Report, 'Nigeria Multidimensional Poverty Index (2022)', https://www.undp.org/nigeria/publications/nigeria-multidimensional-poverty-index-2022, accessed 30 June 2024.