



EMBEZZLEMENT AND ECONOMIC AND SOCIAL RIGHTS IN NIGERIA: A PHILOSOPHICAL ANALYSIS

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Abstract

The rate at which public office holders in Nigeria embezzle public funds calls for a serious urgent attention. Again, there is a remarkable link between embezzlement and Economic and Social rights. It is a truism that Nigeria is an agony of a nation. This is because of the level of poverty and misery that uncharitable embezzlement of public funds by heartless and cruel government officials has thrown us into. This essay meticulously analysed and established the relationships that exist between embezzlement and economic and social rights in Nigeria. Using the method of analysis, it is the findings of this research indicate that embezzlement has serious negative effects on the enjoyment of the economic and social rights of Nigerians. The essay concludes that embezzlement violates the human economic and social rights of the people of this nation.

Keywords: Economy, Philosophy, Embezzlement, Social Rights, Nigeria

Introduction

Accountability in governance pays highly. Starting from the public office holders to the citizens of the state, it is a mark of authentic, laudable, and healthy existence. Proper accountability in governance, transparency, responsibility, and integrity are conditions sine qua non for the absolute realization of fundamental human rights in a State. Good governance remains a mirage without them. Full realization of the Millennium Development Goals depends on them. The absolute fulfillment of citizens' aspirations and desires for healthy, balanced, and sustainable human and environmental development hinges on them. What about the total achievement of the elimination of poverty, promotion and protection of security of life and property, and the assurance of the protection and promotion of the concept and principles of the rule of law? Indeed, it is only accountability, transparency, responsibility, and integrity among those in charge of the leadership of the State that guarantees and fosters the healthy and adequate realization of all these noble ideas mentioned above.

Embezzlement of public funds negates the general ideas of accountability, transparency, and the like. It wars against human and infrastructural development of any State. Embezzlement corrupts the whole idea of economic, political, and social development of a nation. Economic and social rights remain crippled in that country where embezzlement of public funds is the order of the day. That country is in trouble or in its moribund state when those entrusted with the piloting of the ship of the State are only interested in the embezzlement of funds budgeted for the maintenance of the sacred life of its citizens. In fact, it is nothing but the agony of a nation. Banji Oyeniran



Adediji makes it as clear as crystal that for a country to be successful, there should be accountability in the public sector and transparency of accounts among the executives as well as the spirit of prudence, efficiency, and deep-rooted acceptability in public money management (Adediji 2009:80).

What Is Embezzlement?

Embezzlement is the fraudulent appropriation of property by one lawfully entrusted with its possession (Moore V. United States, 1895). In the American legal system, the lawful character of the possession is the major element in an embezzlement conviction. Embezzlement, based on the definition above, simply means theft-after-trust (Green 1993:95). It is also defined by Green as trust violation. "White collar crime" is the name given to embezzlement by Edwin Gutherland in (Green 1993:106). Embezzlement is the siphoning off of State funds for personal use by top government officials or those at the government helm of affairs.

Embezzlement is closely related or linked to stealing except that most legislation creating it requires two elements to be fulfilled Viz: (1) that the offender has been entrusted with the object by the owner, or at least has possession at the time of the offence. (2) A subsequent act of deprivation, usually termed conversion or fraudulent appropriation of the entrusted public fund (Fletcher 2000:7). In other words, embezzlement is the outright theft of entrusted public funds or objects, thereby denying the owner the use of it (Adeh 2010:105). It is the same thing with stealing, and is treated as such in the legal systems of many countries of the world.

Embezzlement in Nigeria

Embezzlement is a form of corruption, and it is tantamount to stealing. The notoriousness of Nigerians in corrupt and fraudulent activities is not questionable in any part of the world. As a result, embezzlement as a form of corruption is very rampant in Nigeria. If all the embezzlement cases in the Nigerian government were written down in this article, I strongly believe that no journal in the world could carry them.

William Shakespeare gave an eternal statement and truth when he stated that a high position is misused when it loses kindness and pity. One can strongly concur with me that public office holders in Nigeria, right from the nation's independence in 1960, have misused their privileged high positions of authority. It is as if kindness and pity are not even in the dictionary of the Nigerian government and leadership.

According to Mallam Nuhu Ribadu, the former Economic and Financial Crimes Commission (EFCC) boss, over \$400 billion that had been looted from the Commonwealth by the leaders is six times the total value of resources committed to rebuilding Western Europe after the Second World War (Ademola 2011: 307 -314). Still hammering on this fact, Kahu N. Kabu writes that while it is noteworthy that in the course of Obasanjo's eight-year administration, the country earned \$233 billion, two and a half times the amount earned over the previous years, EFCC estimated that the country has lost about \$400 billion since independence in 1960 to embezzlement by corrupt leaders (Kalu 2009:130).



The above huge amount of money, if properly utilized for the building of Nigeria, is more than enough to include this country in the list of the developed countries of the world. Again, some (if not most) governors and their accomplices in the last democratic government (1979-1983) buried thousands of public funds (Naira, pounds, Dollars) in their private homes for private use (Umez: 1999:28). It is also on record that before he died in office in June 1998, General Sani Abacha was believed to have siphoned off more than \$5 billion of public funds into his various foreign bank accounts. Also in 2006, a controversial \$90 million oil bloc scandal between Addax Petroleum of Canada and little-known "Starcrest Energy" of Nigeria threatened to expose collusive activities between top presidential officials, their cronies, and the foreign oil conglomerates. There was also the revealed secret deal in 2006 that some foreign contractors in the oil and gas sector connived with officials of the Nigerian National Petroleum Corporation (NNPC) to siphon off revenue totaling \$20 billion through the award of construction contracts for work that were either not done or remained uncompleted (Kalu 2009:130).

Furthermore, there was the report that more than \$380 billion public fund was stolen by those in government between 1960 and 1999 (Human Rights Watch 2007:16). Also a 2007 report on local government corruption in oil-rich River State highlights several examples of embezzlement that included, for example, the illegal allocation to the chair of Khana's Local Government in 2005 of salary and allowance worth \$376,000, which were nearly half the total amount allocated for the wages and allowances of Ghana's 325 health sector workers; the allocation in 2006 to the chair of Tails local government of a security vote of \$300,000, which exceeded the council's total capital budgets for either health or education; and illegal awarding, during 2005- 2006 by the chair of Opobo Nkoro's local government, of \$91,000 worth of construction contracts to himself. (Human Rights Watch 2007;32 in Obadere and Adebewi 2013:91).

One can go ad-infinitum in giving instances of embezzlement of public funds and property in Nigeria. But the questions remain: where has it landed us? Which way, Nigeria? Which way to go? The results are obvious, even to a careless observer: underdevelopment, poverty, mass illiteracy, political instability, and high death rate.

What Is A Right?

A right can be defined as a natural due. By this definition, one can rightly say that rights are somebody's natural inheritance. A right is what really and rightfully belongs to a person from birth. A right is one's moral claim. Lastly, a right is a legal entitlement. By this last definition, rights have legal backup or backing, both at the national and international levels (Kolo 1995:5).

What are human rights?

Human Rights are generally understood as the inalienable fundamental rights which somebody is inherently entitled to simply because he or she is a human being (Aniobi 2013:3). Human rights are rights inherent to all human beings regardless of one's language, colour, sex, national or ethnic origin, nationality, place of residence, or any other status. Everybody is equally entitled to human rights, and there is no discrimination. All human rights are universal, inalienable, indivisible, interrelated, and interdependent.



According to the United Nations' Human Rights Office of the High Commissioner for Human Rights, universal human Rights are often expressed and guaranteed by law, in the form of treaties, customary international law, general principles, and other sources of international law. International human rights law lays down obligations of Governments to act in certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals or groups (Office of the Human Rights).

The duty of Commonwealth leaders, therefore, is to ensure that the constitutions of their States guarantee, promote, and preserve universal Human Rights as emphasized in the Universal Declaration on Human Rights in 1948, which has been re-emphasized in numerous international human rights conventions, declarations, and resolutions. In the 1993 Vienna World Conference on Human Rights, one major resolution reached was that every State owes it as a duty to promote and protect all human rights and fundamental freedoms, regardless of their political, economic, and cultural systems (Vienna Declaration and Programme of Action 1993).

Again, human rights entail both rights and obligations. States assume obligations and duties under international law to respect, to promote, to protect, and to fulfill human rights. The obligation to respect means that States should eschew any act capable of limiting or curtailing the full enjoyment of human rights. The State's obligation to protect means that States should fight all forms of individuals or groups involved in human rights abuse. The obligation to fulfill, on the other hand, maintains that it is the duty of the States to take positive action to facilitate the enjoyment of basic human rights. At the individual level, while everybody is entitled to their human rights, one should not trample on the rights of their neighbours (Office of the Human Rights).

What Are Economic and Social Rights?

Economic and social rights are among the categories of Human rights. There are some other categories of human rights, such as political, civil, and environmental rights. But for this essay, economic and social rights are purposely singled out for elucidation. The reason for this is deliberate or intentional in that economic and social rights are a class of right that provides the conditions necessary for prosperity and adequate standard of living (Amobi 2013:7). Economic and social rights are socio-economic rights such as right to education, right to housing, right to adequate standard of living, right to health and right to science and culture. The Universal Declaration of Human Rights (UDHR), adopted by the UN General Assembly in 1948 (December 10), is one of the most important sources of economic, social, and cultural rights. It recognizes the rights to security in Article 22, the right to work in Article 23, the right to rest and leisure in Article 24, the right to an adequate standard of living in Article 25, the right to education in Article 26, and the right to the benefits of science and culture in Article 27 (Scott and Gallanger 2006: xiv).

The primary international legal source of economic, social, and cultural rights is the International Convention on Economic, Social, and Cultural Rights (ICESCR). Articles 6 and 7 of the Convention recognized and protected the right to work and to just and favourable working conditions. Also recognized and protected by the Convention are: the right to join trade unions



and take collective labour actions (Article 8), the right to social security (Article 9), the right to protection of the family, including protection for mother and children (Article 10), the right to housing and the right to food (article 11), the right to health (article 12), the right to education (article 13), etc. (Leckie, Gallanger 2006: xiv).

From the instances of economic and social rights listed above, the importance of this category of human rights becomes obvious. But how are economic and social rights recognized, protected, and guaranteed in Nigeria? Granted that the 1999 constitution of the Federal Republic of Nigeria has the provision for these rights, but do Nigerians enjoy their full economic and social rights? Do we even enjoy these rights at all? With these all-important questions, we turn to the next subtopic.

The Effects of Embezzlement on Social and Economic Rights in Nigeria

Remarkable linkage exists between embezzlement and Economic and social rights. Embezzlement, per se, as a form of corruption, is a violation of human rights. It is the state's obligation under the International Covenant on Economic, Social and Cultural Rights (ICESCR) to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present covenant by all appropriate means, including particularly the adaptation of Legislative measures (ICESCR, art 2(1): 15-18).

Every State is under a serious obligation to allocate the ever-increasing resources to the progressive actualization of every right enshrined and recognized under the Covenant. States are also vehemently prohibited from taking deliberately retrogressive measures and from ensuring adequate provision of public services such as food, education, health, water, and housing. As they strive to achieve the full realization of these goals, they should consider the principles of availability, accessibility, acceptability, and adoptability (ICESCR, art. 2(1): 19-24).

Rampant embezzlement of public funds budgeted every year on Agriculture, Education, Housing, Health, etc, in Nigeria, points to the fact that the Nigerian government is not measuring up at all. The stealing or embezzlement of public funds by corrupt government officials cripples healthcare, education, housing, and food supply. There is no doubt about it. The right to food is a social right of every human being. It is the fundamental human right of everybody to be free from hunger, which is essential to ensuring an adequate standard of living. Navi Pillay, the United Nations High Commissioner for Human Right made it clear that. The money stolen through corruption every year is enough to feed the world's hungry 80 times over. Nearly 870 million people go to bed hungry every night; many of them are children; corruption denies them their rights to food, and in some cases, their right to life. A human rights-based approach to anti-corruption responds to the people's resounding call for a social and economic order that delivers on the promises of "freedom from fear and want (Navi, Pillay 2008: 1).

Embezzlement curtails the people's social right to food. When people lack access to potable water and good food as a result of the embezzlement of public funds, it leads to diseases



associated with malnutrition. And this can lead to death. We can see that embezzlement can lead to death, which violates the human right to life. By and large, embezzlement compromises the realization of the right to food and the right to life. Food insecurity in the country today is caused by the stealing of funds or resources allocated to food for private use.

Embezzlement violates the right to education. The stealing or diversion of resources allocated to education by corrupt government officials has many negative impacts on education in Nigeria. If not, why is it that millions of Nigerians don't go to school? Why are millions of our youth dropping out of school? Why are our teachers, lecturers, and workers in our educational institutions always on strike, owed salaries, and underpaid? Why do we have a poor standard of education in Nigeria? Navi, Pillay warns that Education, in addition to being an entitlement, is instrumental to promoting development, social justice, and other human rights. Education has the potential to instill hope in our Children and encourage a spirit of common and shared responsibility for our planet and for humanity. The values imparted through education are perhaps its most important product. By striving to help students to internalize values and practices such as dignity, integrity, liberty, equality, and non-discrimination, participation, accountability, and transparency, education can play a crucial role in anti-corruption efforts and the promotion of human rights, and to prepare them to guard against corruption and human rights violations within their own society (Pillay 2008:10).

Nigeria can only get it right when the educational sector is put in order. The views of Pillay above support the fact that every anti-corruption effort in Nigeria can only be successful when qualitative education is given and received by the good citizens of the country. In other words, every effort to rid Nigeria of corruption and embezzlement will prove abortive if the educational sector is not put to address the poor quality of education. But it is really a terrible malady that this all- important sector of our economy receives the highest blow from embezzlement since independence in 1960.

Another social right is the right to adequate housing, which is one of the necessities of life and which is also one of the component elements of the right to an adequate standard of living (ICESCR, art. 11(1)). It is the right of every Nigerian to enjoy safe, healthy, and adequate housing. Embezzlement is limiting the enjoyment of this right by the people of Nigeria. Many Nigerians are homeless today. Only those who can embezzle public funds, which is made possible by their privileged high positions in government, can boast of safe, comfortable, and adequate shelter. Unfortunately, the right to adequate housing is highly violated by embezzlement, and many Nigerians are not enjoying their inalienable right to adequate housing.

The right to the highest attainable physical and mental health is contained in Article 12 of the International Covenant on Economic, Social, and Cultural Rights (ICESCR). It embodies the whole explanations to the full enjoyment of several facilities, goods, services, and conditions sine qua non for the objective realization of the highest attainable standard of health. It is obvious that embezzlement is blocking and affecting the enjoyment of the human right to adequate health in Nigeria. The embezzlement of the budget allocated to the health sector by Nigerian government officials affects the right to health. Health workers steal drugs and medical



facilities that the government of Nigeria allocates to health. Our hospitals are mortuaries, and the death rate is unimaginably high.

One can go on ad-infinitum explaining how embezzlement of public funds hampers the enjoyment of Social and economic rights of the good people of Nigeria. Do we talk of the effects of embezzlement on the right to work, the right to employment, the right to fair wages, the right to Social Care, the right to join trade unions and take active participation, etc? Embezzlement is the incubator of all forms of corruption in Nigeria. People should have the fear of God. Those in positions of authority in the Government of Nigeria should eschew embezzlement so that the good people of this Nation can enjoy their Economic and Social rights.

Conclusion

Embezzlement is a universal problem affecting the enjoyment of human rights, especially the economic and social rights of Nigerians. If we can eliminate embezzlement of public funds by public office holders in Nigeria, the economic, social, and cultural rights of the people of this State will be promoted and protected. The human right to education should be given proper attention in all attempts by the authority of this State to eliminate corruption. The key to the full realization of the workability and success of every anti-corruption law in Nigeria can only be possible and attainable when the human right to education is fully realized and preserved. Injustice, oppression, and discrimination in Nigeria are a result of the negligence and violations of the human rights of the Citizens of Nigeria, mostly the Economic and Cultural rights. Insecurity in government, insecurity of life and property, job insecurity, environmental insecurity, food insecurity, health insecurity, name them, are a result of human rights violations. Stop Economic and Social rights violations, things will take a good shape in Nigeria and for Nigerians. Human rights violations orchestrated by the embezzlement of public fund is the cause of the whole lot of unrest in Nigeria.

References

- Adedji, B.A. (2013), *Deeper Insight into Nigeria's Public Administration*, Bloomington: Author House Publishers.
- Ademola, A. (2011), *Endangering Good Governance for Sustainable Democracy: The Continuity Struggle against Corruption in Nigeria*, Journal of Research in Peace, Gender and Development.
- Amobi A.A (2013), *Fundamentals of Civic Education for Senior Secondary Schools 3*, Enugu: Kristina Book Publishers.
- Fletcher in Adeh I. (2010), *Corruption and Environmental Law: The Case of Nigeria Delta*, London: Transaction Publishers.
- Forwarded by NAVI Pillay- The United Nations High Commissioner for Human Rights, to Transparency International's Global Corruption Report: Education. The Human Rights Case against Corruption, OHCHR'S Pamphlet.



- Gebeye A. (2012) "Corruption and Human Rights: Exploring the Relationships.
- Green G.S (1993). "White-Collar Crime and the Study of Embezzlement," *Annals of the American Academy of Political and Social Science*, 525.
- Ibrahim, Kolo, (1995), *Nigeria and The Rights of the Child*, Ikeja: Jeromelaiho and Associates Ltd.
- International Convention on Economic, Social and Cultural Rights (ICESCR) article 2(2)
- International Convention on Economic, Social and Cultural Rights (ICESCR) art. 11(1)
- Kalu N.K (2007), *State Power, Autarchy, and Political Conquest in Nigerian Federalism*, Lanham: Lexington Books
- Leckie S., Gllanger A. (2006), *Economic, Social and Cultural Rights: A Legal Resources Guide*, University of Pennsylvania Press. Moore V. United States, 160U.S. 268, 269-27.
- Pillay, N. The United Nations High Commissioner for Human Rights, *The Human Rights Case Against Corruption*, OHCHR'S Pamphlet. www.ohchr.org. Retrieved 2015/09/25.
- Rotimi S. in Ebenezer O. and Wale A (2013), *Nigeria at fifty: The Nation in Narration*, London: Routledge.
- The Right to Adequate Housing, Article 11(1) of the ICESCR; Para. & and 11, pp. 19-24, in *United Nations International Human Rights Instruments 2014, Compilations of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, HR1/GEN/1/REV.7. In Berihum.
- Umez B.N., (1992). *The Tragedy of a Value System in Nigeria: Theories and Solutions*. International Scholars Publications.
- United Nations Committee on Economic, Social and Cultural Rights (CESCR) (1990), General Comment No 3: The Nature of States Parties' Obligation, Article 2, Para 1 of the ICESCR; Para. 9, PP. 15-18;
- United Nations Committee on Economic, Social and Cultural Rights (CESCR) (1991), "General Comment No 4:
- United Nations Human Rights- Office of the High Commissioner for Human Rights. www.ohchr.org/EN/Issues/pages/whatarehumRetrievedon2015/09