Socio-Economic Rights As Fundamental Rights: An Examination of the African Charter and the Fundamental Rights Enforcement Procedure Rules of 2009.

Amos Okoro Ogbonnaya*

Abstract

The 1999 Constitution of the Federal Republic of Nigeria (as amended) makes ample provisions for social, economic, and cultural rights (socio-economic rights) in its Chapter II, which is an innovation inherited from the 1979 Constitution. Since these positive human rights were introduced into Nigerian jurisprudence, there have been raging debates about their status vis-à-vis the fundamental human rights in Chapter IV of the Constitution, considered as first generation rights. Some have argued that socio-economic rights are merely directive principles to guide the state in policy formulation and budgeting, and that their provisions are subject to availability of resources, but others insist that they are necessary rights that are at par with the fundamental rights without which the latter lose their meaning and efficacy. This paper examines these debates against the backdrop of the domestication of the African Charter on Human and Peoples Rights (the African Charter) and the enactment of the Fundamental Rights Enforcement Procedure Rules (FREP Rules) of 2009, and interrogates how these two legal frameworks have impacted the status of socio-economic rights in the hierarchy of human rights. The paper adopts the doctrinal method of research by examining the opinion of authors, statutes and case laws and will argue that the domestication of the African Charter and the FREP Rules have changed the dynamics of the debate on the status and importance of socio-economic rights thereby making these second generation rights enforceable in Nigeria.

Keywords: Constitution, Socio-economic rights, Fundamental Rights, African Charter, Good Government, Welfare.

1. **Introduction**

The intention of the framers of the 1999 Constitution of the Federal Republic of Nigeria (the Constitution) with regard to the socio-economic rights in Chapter II can be deciphered from the preamble to the Constitution which

states that these rights are for 'the purpose of the good government and welfare of all persons in our country on the principles of Freedom, Equality and Justice, and for the purpose of consolidating the Unity of our people.' The operative words in this preamble are, 'good government,' and 'welfare of all persons,' which, together with 'freedom,' 'equality,' and 'justice,' are clear indices of socio-economic rights. It is true that the preamble can neither found a cause of action, nor be a source of any legal powers or litigation, but it remains a reflection of the thoughts and minds of the makers of the Constitution, and an important tool for the interpretation of the Constitution. In many decided cases which involved constitutional interpretation, the courts have had recourse to the preamble to determine the intention of the framers of the Constitution.[1]

2. The Origin of the Idea of Socio-Economic Rights

The idea of socio-economic rights in Nigeria's constitutional history can be traced to the Indian Constitution of 1950[2]which was in turn tailored after the Irish Constitution of 1922. It is believed that the framers of the Indian Constitution were influenced by the Irish nationalist movement in the pre-Second World War era.[3] The concept of socio-economic rights, also referred to as Directive Principles in the Irish Constitution is further traceable to the French Declaration of *Rights of Man*, which was a product of the American Declaration of Independence of 1776,[4]and the French Revolution that started on 14 July 1789 and ended in 1799. The Indian Constitution was further influenced by the United Nations' Universal Declaration of Human Rights (UDHR) of 1948. Before the Indian Independence in 1947, quite a number of Indian students in the United Kingdom (UK) had fallen in love with the ideals of democracy, human rights and European political history, and were

*Amos Okoro Ogbonnaya, LLB (Hons), BL, LLM (Lagos) is a legal practitioner and management consultant. E-mail: amosogbonnaya@gmail.com

[1]*See, Adesanya v The President of Nigeri*a [1981] 2 NCLR 358; *Attorney General Ogun State v Attorney General Federation [1982] 3 NCLR 166.*

[2] India gained independence from British colonial rule in 1947 and adopted her Constitution in 1950.

[3] Ayush Verma, 'Fundamental status of economic and social rights in Indian constitution (8 October 2020) <https://blog.ipleaders.in/fundamental-status-economic-social-rights-indian-constitution/> accessed 17 June 2022.

[4] The Declaration of Independence was the founding document of the United States, written in 1776 and approved by the Continental Congress on 4 July 1776.. By adopting the Declaration, the 13 North American British colonies announced their severance of their political connections to Great Britain, stating reasons for their separation.

also inspired by the knowledge of parliamentary democracy and the British political parties.[5] In 1919, there was a socio-political turmoil in England caused by the enactment of the Revolutionary Crimes Act (popularly called Rowlatt Act) of 1919[6] which granted wide powers to the British government to arrest and detain people indefinitely, to search people's houses without warrant, to restrict public gatherings, and to gag the press. This led to mass demonstrations across Britain demanding guarantees of civil rights and an abridgement of government powers. Following their independence in 1922, the Irish developed their own indigenous Constitution and incorporated socio-economic rights as Directive Principles of State Policy. India copied this constitutional framework in its post independence Constitution of 1950,[7] followed by Nigeria in 1979.

It has also been postulated that the entire essence of the inclusion of socio-economic rights in national Constitutions is 'to constantly keep welfare issues in the front burner and serve as a medium of silent social revolution, so that those in power will live in the consciousness of who their masters really are.'[8] Indeed, social welfare and security are what justifies the existence of a state or government.[9] In pre-medieval times, man existed in a state of nature where life was described as nasty, brutish and short.[10] It is the

[5] Verma (n 3).

[6] This was a Legislative Council Act passed by the Imperial Legislative Council in Delhi, India, on 18 March 1919, on the recommendations of the Rowlatt Committee and named after its President, Sir Sidney Rowlatt.

[7] After the Irish War in 1922, most of Ireland seceded from the United Kingdom to become Independent Irish Free States but under the Anglo-Irish Treaty. The six north-eastern countries (known as Northern Ireland) remained within the UK, creating the partition of Ireland. In 1938, Ireland and Britain signed a trade agreement but this agreement failed to end the partition of Ireland. The Irish Republican Army (I.R.A.) became unhappy and started a bombing campaign in England which lasted until the Second World War. On 18 April 1949, Ireland left the British Common Wealth and finally became a fully independent state. See, Alvin Jackson, *Ireland 1798 – 1998: War, Peace and Beyond* (2nd edn, London: John Willey & Sons 2010) 239). See also, Robert Lynch, *The Partition of Ireland: 1918 -1925* (Cambridge: Cambridge University Press 2019) 100 -101.

[8] Samuel I Nwatu, 'Legal Framework for the Protection of Socio-Economic Rights in Nigeria' [2011-2012] (10) *Nigerian Juridical Review* 34.

[9] Section 14(2) (a) indeed reminds us that sovereignty belongs to the Nigerian people from whom government through the Constitution derives all its power and authority. It is probably for this reason that section 224 of the 1999 Constitution insists that the programme as well as the objects of a political party shall conform to the provisions of Chapter II of the Constitution. See Nwatu (n 8) 35.

[10] Words of Thomas Hobbes, an English philosopher considered to be one of the founders of modern political philosophy. He is best known for his 17th century book, *Leviathan* in which he expounded the social contract theory.

desire for social welfare and security that made man to exit that state of nature and to opt for a political community. It thus follows that a society that neglects social welfare and security; a society that allows its people to wallow in abject poverty; a society that allows its people to live in unsafe and dehumanising environment, has indeed denied the very reason for its existence and has breached the social contract. The citizens of such a society are, according to David Hume, 'freed from their premises … and return to that state of liberty which preceded the institution of government.'[11]

3. The Impact of the African Charter on the Status of Socio-Economic Rights

Following the adoption of UDHR in 1948 there were many regional efforts aimed at the protection of human rights.[12] The first was the European Convention for the Protection of Human Rights and Fundamental Freedoms,[13]followed by the Inter-American Convention on Human Rights which came into effect in 1979.[14] Africa followed this trend in 1981 when the 18th Assembly of the Organisation of African Unity (OAU), now African Union (AU), met in Nairobi, Kenya and adopted the African Charter, which came into effect on 21 October 1986 upon its ratification by a required majority of African states.[15] Before the adoption of the African Charter, there was an African Conference on the Rule of Law held in Lagos in 1961 where the principles governing the African Charter were first enunciated. The African Charter was, therefore, the first human rights instrument to be adopted in Africa[16]reflective of African colonial history of slavery, intra-ethnic and inter-state wars and military misrule that were notorious for gross human rights violations.[17] Naldi, had argued that the drafting of the African Charter was inspired by the traditions and values of

[11]Quoted in Nwatu (n 8) 34.

[12] Both civil, political and socio-economic rights.

[13]On 4 November, 1950, the Council of Europe negotiated the Convention and it came into effect in 1953.

[14]In 1969, the Inter-American Specialised Conference on Human Rights met in San Jose, Costa Rica, negotiated and adopted the Convention.

[15]The Charter is also referred to as the 'Banjul Charter' because Banjul, capital of the Gambia had hosted most of the conferences at which the Charter was negotiated and drafted. Nigeria ratified the Charter in 1983 pursuant to section 12(1) of the 1979 Constitution. So far 54 out of 55 African states have adopted the Charter. Morocco remains the only exception.

[16]Joy Ngozi Ezeilo, *Women, Law & Human Rights: Global and National Perspective* (Enugu: Acena Publishers 2011) 81.

[17]Ibid.

African society, which included African concept of law and rights, and its negative historic experiences.[18] Thus, the coming into effect of the Charter was a loud message that the era of egregious human rights violations in the continent was over. But whether the Charter has really met this expectation of changing human rights practice in Africa remains a subject of much debate. Many have criticised the African Charter as a toothless bull dog, probably because of its weak enforcement mechanism, the rise in gross human rights violations in Africa perpetrated by its political leaders and the inability of victims to get effective remedy under the Charter.[19]

4. Enforcement of Socio-Economic Rights through the African Charter

The domestication of the African Charter as part of Nigeria's national laws is very strategic to human rights enforcement in Nigeria because it places both socio-economic rights and the civil and political rights on equal pedestal. The fact that it does not contain special provisions for its enforcement[20]like the Fundamental Rights Enforcement Procedure Rules (FREP Rules) does not matter in the context of Nigeria, as there is nothing in our laws that inhibit its enforcement. The Supreme Court in *Ogugu v. The State,*[21]affirmed this when it held that the African Charter, like all other laws, fall within the judicial powers of the courts, and that by virtue of the provisions of sections 6(6)(b), 236 and 230 of the 1979 Constitution,[22]it is apparent that the human and peoples' rights provisions in the Charter are enforceable by our courts depending on the circumstances of each case and in accordance with the rules and practice of each court. This decision does not establish the superiority of the African Charter over the Constitution as was clarified in *Abacha v Fawehinmi*[23] where the apex court held that, whenever a treaty is enacted into law by the National Assembly, it becomes binding and enforceable like other laws within the judicial powers of the

[18]Gino J Naldi, 'The African Union and the Regional Human Rights System' in Malcolm Evans and Rachael Murray (eds), *The African Charter on Human and Peoples' Rights*(2nd edn, Cambridge: Cambridge University Press 2008) 25.
[19]Ezeilo (n 16) 82.
[20]Like s 46 of the Constitution that makes special provisions for the enforcement of civil and political rights in Chapter IV.
[21] [1994] 9 NWLR (pt 366) 1.
[22] Now s 6(6)(b), 272, and 251 of the 1999 Constitution (as amended)
[23]*Abacha v Fawehinmi* [2000] FWLR (pt 4) 533 at 585.

courts.[24] Re-echoing the clear provisions of sections 1(1) and (3) of the Constitution as to its supremacy, the apex court reiterated that even though the African Charter possesses 'a greater vigour and strength' than other domestic legislations, it is not 'superior to the Constitution.'[25]

On the above authority, we submit that the African Charter occupies a very high pedestal in Nigerian human rights jurisprudence and its socio-economic rights provisions are enforceable as part of fundamental rights having been domesticated as part of Nigerian law by the National Assembly pursuant to the duty conferred on it by section 12 of the Constitution and item 60(a) of the Exclusive Legislative List in Part 1 Second Schedule to the Constitution. This makes the socio-economic rights provisions of the African Charter justiciable notwithstanding the provisions of section 6(6) (c) of the Constitution. Furthermore, section 1 of the African Charter on Human and Peoples' Right (Ratification and Enforcement) Act, gives full recognition and enforcement of its provisions without equivocation.

Nigerian courts, therefore, in the face of the ouster clause in section 6(6)(c) of the Constitution, have relied on the African Charter to enforce socio-economic rights. For instance in *Odafe v Attorney General of the Federation*,[26] the right of prisoners to medical care was held enforceable by the Federal High Court. The court held that the (African) Charter entrenched the socio-economic rights of persons, and that the court is enjoined to ensure its observation. The court further held that, 'A dispute concerning socio-economic rights such as the right to medical attention requires the court to evaluate state policies and give judgment consistent with the Constitution. 'The African Charter has also been relied upon to invalidate some obnoxious domestic laws that entrench environmental injustice in Nigeria, like the case where the plaintiff filed a suit to end gas flaring in the Niger Delta.[27] The court held that the extant gas flaring laws 'was inconsistent with the applicant's right to life and/or dignity of human person' as enshrined in the

[24]Ibid 586 (A) and (B).
[25]Ibid 586 [C] and [D}.
[26] [2004] AHRLR 205 at 211. Cited in Eghosa Ekhator, 'Improving Access to Environmental Justice Under the African Charter: The Roles of NGOs in Nigeria' [2014] (22)(1) *African Journal of International and Comparative Law* 63.
[27]*Gbemre v Shell Petroleum* FHC Benin, Nwokorie J, FHC/B/CS/53/05 (14 November 2005).

Constitution and the African Charter. Also in a recent case, the Lagos State High Court[28] held that the termination of the employment of a nurse on the basis of her HIV positive status was unlawful, and that the denial of medical care to the plaintiff was a violation of article 16 of the African Charter and article 12 of the ICESCR which have been ratified by Nigeria.[29]

5.Impact of the African Charter on the Doctrine of *Locus Standi*

The doctrine of *Locus Standi* has been one of the greatest inhibitions to human rights enforcement and public interest litigation in Nigeria. *Locus standi* simply means, standing to sue or capacity to sue. The *locus classicus* on *locus standi* is the Supreme Court decision in *Adesanya v President of Nigeria*[30] which was based on the interpretation of Section 6(6) (b) of the 1979 Constitution[31]that provided that the judicial powers vested in the courts shall 'extend to all matters between persons, or between government or authority and any person in Nigeria, and to all actions and proceedings relating thereto, for the determination of any question as to the civil rights and obligations of that person.' The Supreme Court in this case laid down the principle that a plaintiff will have *locus standi* once he can show that his 'civil rights and obligations' have been, are being or are about to be violated.' This principle has since been followed in a long line of cases decided both by the apex court and the lower courts.[32] In all these cases, the *ratio decidendi* is that when a man comes to court to seek reliefs in a dispute between him and any person or authority, he must show a legal interest that entitles him to the reliefs sought. In *Adesanya's* case, the apex court[33] further held that, 'the type of case or controversy which will justify the exercise of

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[28]*Georgina Ahamefule v Imperial Medical Centre* Lagos High Court, Idowu J, ID/1627/2000 (27/9/2012).

[29] This judgement was given in the face of s 17 (3) (d) of Chapter II of the Constitution that is considered non-justiciable. For a full analysis of the case, see Ebenezer Durojaiye, 'So Sweet, So Sour: A Commentary on the Nigerian High Court's Decision in *Georgina Ahamefule v Imperial Hospital & Anor* relating to the Right of Persons Living with HIV' [2013] (13) *African Human Rights Law Journal* 464. See also, Emeka Amechi, 'Environmental Pollution and Human Rights in Nigeria: Some Reflections on the Linkages and the Need for Effective Enforcement of Environmental Regulations' [2012] (18) (1) *The Nigerian Journal of Contemporary Law* 93.

[30]Adesanya (n 1) 358.

[31] Now s 6(6) (b) of the 1999 Constitution.

[32] See *Attorney General of Kaduna State v Hassan* [1985] 2 NWLR 483; *Thomas v Olutosoye* [1986] 1 NWLR 669; *Orogan v Soremekun* [1986] 5 NWLR 688; and *Gamioba v Esezi* [1961] All NLR 584.

[33] Per Idigbe JSC at 387.

the judicial powers of the court must be justiciable and based on a bona fide assertion of right by the litigant before it.'[34]

However, in a later case of *Fawehinmi v Akilu* (No. 2),[35]the appellant sought leave of court to bring an application for an order of mandamus to compel the Attorney General of Lagos State to perform his functions of endorsing a certificate on the information filed by the appellant against the respondents that he was unwilling to prosecute at public expense so as to make room for the appellant to proceed as a private prosecutor pursuant to sections 340, 342 and 343 of the Criminal Procedure Law of Lagos State 1973. The Supreme Court expanded the scope of *locus standi* by holding that 'the peace of the society is the responsibility of all persons in the country and as far as protection against crime is concerned, every person in the society is each other's keeper. Since we are all brothers in the society, we are our brother's keeper.'[36] This Supreme Court decision is a remarkable departure from the former narrow attitude of the Supreme Court in *Abraham Adesanya* case[37] and other decisions subsequent to it which was anchored on the common law concept of *locus standi* that stipulates that only the one whose legal right has been violated or that has suffered, or is in imminent danger of suffering an injury or damage has the legal right to sue.

6. Impact of the FREP Rules on Socio-Economic Rights

The FREP Rules was enacted by the Chief Justice of Nigeria (CJN) in 2009 pursuant to the powers conferred on him by section 46(3) of the Constitution. The Rules has also extended the frontiers of human rights litigation in Nigeria by its Preamble 3(e) which clearly abolished the *locus standi* doctrine[38] in all cases related to human rights enforcement. The Preamble also enjoins the courts to welcome public interest litigations in the human rights field. The resultant effect of these provisions are that no human

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[34]*Adesanya (n 1) 358.*
[35] [1987] 4 NWLR 797.
[36]*Ibid.*
[37]*Adesanya (n 1).*
[38]Femi Falana, *Fundamental Rights Enforcement in Nigeria* (2nd edn, Lagos: Legal Text Publishing Company Ltd. 2010) 14. See also, Victor Ayeni, 'The Impact of the African Charter and Women's Protocol in Nigeria' in Centre for Human Rights*, The Impact of the African Charter and Women's Protocol in Selected African States* (Pretoria: Pretoria University Law Press 2012) 128. The author cited the case of *Nwankwo v Onomeze-Madu* [2009] 1 NWLR (Pt 1123) 671, 715-716 as authority where the court relaxed the rule of *locus standi* on the basis of art 13(2) of the African Charter.

rights case can be struck out or dismissed anymore for want of *locus standi* since human rights activists, advocates, groups as well as non-governmental organizations can now institute human rights application on behalf of any potential applicant. Such applicants may include anyone acting in his own interest, acting on behalf of another person, or acting as a member of, or in the interest of a group or class of persons. It also includes anyone acting in the public interest, known as public interest litigation.

Paragraph 3(b) of the Preamble to the FREP Rules also enjoins the courts to, for the purpose of advancing the applicant's rights and freedom, 'respect municipal, regional and international bills of rights cited to it or brought to its attention or of which the court is aware, whether these bills constitute instruments in themselves or form parts of larger documents like constitutions.' The FREP Rules enumerate these treaties to include, the African Charter, the UDHR, the ICESCR, and other instruments in the UN human rights framework,[39] and thus laid to rest the debate over the justiciability and status of socio-economic rights provisions. Most importantly, the FREP Rules also define fundamental rights expansively to include 'any of the rights stipulated in the African Charter,[40] which invariably includes socio-economic rights contained in the Charter, thereby conferring jurisdiction on the courts to enforce socio-economic rights as part of fundamental rights.

7. Judicial Attitude to Socio-Economic Rights

The Nigerian courts generally view the directive principles in Chapter II of the Constitution as non justiciable in spite of the argument adduced above to the contrary,[41] but accept Chapter IV which deals with civil and political

[39] Preamble 3 (b) (i) and (ii).

[40] See or 1 r 2 of the FREP Rules 2009. See also, Emeka Amechi, 'Litigating Rights to Healthy Environment in Nigeria: An Examination of the Impacts of the Fundamental Rights (Enforcement Procedure) Rules 2009 in Emeka Amechi (ed), *Ensuring Access to Justice for Victims of Environmental Degradation* [2010] (6) (3) *Law, Environment and Development Journal* 320 and 329.

[41] Late Justice Oputa, of the Nigerian Supreme Court, had held the same view that Chapter II is not justiciable. He however argued that although this is the case, yet the philosophy behind the Directive Principles in Chapter II can assist in the interpretation and application of other legislations. For instance, the Right to Life in section 33(1) of the 1999 Constitution can best be enjoyed when the social, economic, educational and environmental rights are guaranteed. Oputa argued that the right to life 'does not envisage mere existence' but 'looks forward to the enjoyment of a fuller and better life.' This good life is

rights as justiciable thereby creating disparity in the human rights regime in Nigeria. As a result, the courts are wont to declare any law that is inconsistent with any of the fundamental rights enumerated in Chapter IV as null and void, but would shy away from taking any such position on laws that contravenes the socio-economic rights. And where there is a conflict between the fundamental rights and the socio-economic rights, the courts would prefer the former to the latter. That is to say that, to Nigerian courts, socio-economic rights cannot override the fundamental Rights. But, as already discussed, the African Charter now provides a watershed by which the courts can recognise and enforce socio-economic rights as fundamental rights by virtue of article 1 of the African Charter[42]which places both classes of rights on the same pedestal. The courts and the human rights community should now see the African Charter as a veritable platform for further enforcement of socio-economic rights as fundamental rights.

The argument that any category of rights guaranteed by the African Charter is enforceable or justifiable as fundamental rights under the FREP Rules is in tandem with the Supreme Court decision in the earlier case of *Ogugu v The State*[43]where the apex court held that the African Charter is applicable and enforceable in Nigeria in the same manner and through the same procedure as any other laws.[44] Nwatu,[45] has however argued that since the African Charter is still a sub-constitutional statute, it means it is still inferior to the Constitution and so any matter which is not justiciable in the Constitution, like the socio-economic rights in Chapter II, cannot be made justiciable by 'judicial legislation.' In support of this argument, Nweze[46]has posited that even in respect of other domestic statutes by which socio-economic rights have been entrenched and consequently made justiciable, those rights do not

best enhanced through the provision of good roads, clean and safe drinking water, adequate shelter, food and other amenities of life.

[42]African Charter on Human and Peoples Rights (Ratification and Enforcement) Act, Cap 10 LFN 1990 (now Cap A9 Vol. 1 LFN 2004)

[43][1994] 9 NWLR (Pt 366) 1.

[44]S 1 of the African Charter (Cap A9) provides that, 'as from the commencement of this Act, the provisions of the African Charter on Human and People's Rights which are set out in the Schedule to this Act shall, subject as there under provided, have force of law in Nigeria and shall be given full recognition and effect and be applied by all authorities and persons exercising legislative, executive or judicial powers in Nigeria.'

[45]Nwatu (n 8) 42.

[46]CC Nweze, 'Justiciability of Treaty Human Rights in Nigerian Courts: A Comparative Legal Process Analysis (PhD thesis, University of Nigeria 2000) 278.

enjoy the juridical status of human rights. With respects, we reject these arguments as tenuous, and submit that section 6(6) (c) of the Constitution that ostensibly makes Chapter II not justiciable has been overtaken and disabled by the African Charter and the FREP Rules.

Section 4(2) of the Constitution vests on the National Assembly the powers to 'make laws for the peace, order and good government of the Federation or any part thereof with respect to any matter included in the Exclusive Legislative List set out in Part I of the Second Schedule to this Constitution.' Part I of the Second Schedule to the Constitution contains the Exclusive Legislative List.[47] Item 60 (a) of the said Legislative List imbues the National Assembly with powers to establish and regulate authorities for the federation or any part thereof 'to promote and enforce the observance of the Fundamental Objectives and Directive Principles contained in (the) Constitution.' So, if the National Assembly enacts a law establishing an Agency to enforce socio-economic rights in Nigeria; if the National Assembly enacts a law granting certain socio-economic rights to Nigerians, or a class of people in Nigeria,[48]and if the National Assembly domesticates a treaty that contains socio-economic rights pursuant to its powers under section 4(2) of the Constitution, would such domestic laws not be enforceable just because it is 'sub-constitutional?' The answer certainly is in the negative.

To hold therefore that the socio-economic rights guaranteed in the African Charter with other domestic legislations are not justiciable by virtue of section 6(6)(c) of the Constitution begs the question and flies in the face of article 18 of the Vienna Convention of 1969 which makes it obligatory on any state to refrain from acts which would defeat the object and purpose of a treaty it has signed or consented to. Nigeria has not only consented to the African Charter, but has domesticated it and made it part of its extant laws pursuant to the provisions of section 12 of the Constitution on implementation of treaties, every provision of the Charter, be it socio-economic or civil and political rights, should and do therefore have equal force of law. With this clear provision, to still hold the view that the socio-

[47] Legislative items over which the National Assembly has exclusive legislative competence.
[48]Like in the case ofthe Child Rights Act, the Employees Compensation Act, the Labour Act, etc.

economic rights guaranteed under the African Charter is not justiciable is untenable. If there are subsidiary legislations by the National Assembly that give effect to any or all of the socio-economic rights provided in Chapter II of the Constitution, such socio-economic rights will become justiciable fundamental rights.

8.Conclusion

We have shown that the African Charter has made socio-economic rights in Nigeria justiciable as part of fundamental rights by virtue of the fact that the Charter is an Act of the National Assembly enacted pursuant to its powers under sections 4(2) and 13 of the Constitution, and item 60(a) of the Exclusive Legislative List. It is settled that all national legislations enacted by the National Assembly, like the African Charter, are for every intent and purpose, justiciable. We have also shown that the FREP Rules made under the hands of the CJN pursuant to the powers vested on him by section 46(3) of the Constitution also recognises all human rights provisions in the African Charter as enforceable, including all treaties and international human rights instruments to which Nigeria is signatory. All that is required now is for the courts to be proactive in utilising these extant laws and existing legal frameworks to ensure the enforcement of socio-economic rights of litigants. Nigerians should also insist on socio-economic rights enforcement by testing the waters of civil litigation and insisting that the courts enforce socio-economic rights as fundamental rights as guaranteed by the African Charter, the Labour Act, the Child Rights Act, and other extant laws.