

**FUEL SUBSIDY REMOVAL AND ITS IMPLICATIONS ON THE ECONOMIC RIGHTS OF NIGERIANS\***

**Abstract**

*Fuel subsidy as a policy began in the 1970s and became institutionalized in 1977 as the Price Control Act was enacted. Subsidies existed because it was a means of making petrol affordable for every Nigerian. This policy is seen as a welfare policy that has helped the economic life of Nigerians by making life a bit affordable for the average citizen. This paper examines the removal of petrol subsidy and its implications on the economic and welfare rights of Nigerians. It also looked at the reason for the removal of the subsidy by the Government. The objective of this paper was to determine whether the removal of petrol subsidy by the Federal government violates the economic and welfare rights of Nigerians such as the right to means of livelihood. This paper adopted the doctrinal research methodology. It was discovered that the removal of petrol subsidy violates the economic and welfare rights of Nigerians. The paper recommended that the government should rescind this policy, prioritize the welfare of Nigerians by declaring a state of emergency on the refineries, provide palliatives that will cushion the effect of petrol subsidy removal, add renewable energy to its energy mix to reduce too much concentration on Hydrocarbon energy among others.*

**Keywords: Petrol, Petrol Subsidy, Subsidy, Economic Rights, Nigerians**

**1. Introduction**

The social contract is an implicit agreement among the members of a society to cooperate for social benefits, for example by sacrificing some individual freedom for state protection. Thus prioritizing the good of the people is the hallmark upon which a government is formed. Nigeria is a country rich in petroleum resources, with the petroleum industry serving as its primary source of revenue.<sup>1</sup> Nigeria is among the top ten oil-producing countries in the world and the leading producer in Africa.<sup>2</sup> However, despite the abundance of petroleum resources, Nigeria has struggled with energy security challenges, primarily due to inadequate infrastructure, insufficient supply, and policy frameworks. The availability and supply of energy are essential for the economic growth and development of every nation. They are seen as human rights to access and use natural resources for the benefit of humanity. Nigeria, as a developing country, has struggled with energy security challenges due to limited energy infrastructure, from the failure of all refineries to the exportation of crude oil and importation of refined petrol and corruption to inadequate legal and policy framework, and insufficient energy supply. The Nigerian government has employed various strategies and policies to address these challenges and enacted laws to subsidize petroleum products. However, despite the apparent benefits of petrol subsidy, the Nigerian government recently removed the subsidy, citing economic reasons. Nigeria barely produces up to 2.0 million barrels a day, due to what the United States Energy Information Administration calls “unplanned outages,” leading to losses of thousands of barrels of oil per day.<sup>3</sup>

The removal of fuel subsidies raises legal and social implications for the energy security of Nigeria, such as the hike in the price of petrol and its effect on other commodities, the resultant impact of social

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<sup>1</sup> Sylvester Okotie “The Nigerian Economy before the Discovery of crude oil” [http://www.researchgate.net/publication/322184134\\_The\\_Nigerian\\_Economy\\_Before\\_the\\_Discovery\\_of\\_Crude\\_Oil](http://www.researchgate.net/publication/322184134_The_Nigerian_Economy_Before_the_Discovery_of_Crude_Oil) accessed 8 April 2024.

<sup>2</sup> Nigeria Extractive Industries Transparency Initiative (NEITI) “Making Transparency Count: Uncovering Billions” <http://eiti.org/files/case%20study%-20EITI%in%20Nigeria.pdf> . accessed 8 April 2024.

<sup>3</sup> United States Energy Information Administration, Country Analysis : Nigeria <<http://www.eia.gov/countries/cab,cfm?fips=ni>> accessed April 6 2024,

unrest, and the significant issues of whether the decision to remove subsidy has a legal backing or it is just a socio policy. Fuel Subsidy is the transfer of economic resources by government to consumers or producers of a good or service.<sup>4</sup> Thus, Fuel subsidy exists because the government fixes the price of fossil fuel for consumers below the international and uses government funds to pay for the difference.<sup>5</sup> Petroleum Subsidy is a form of government intervention to reduce the cost of fuel by providing direct financial support to oil companies to reduce the price for the consumers.<sup>6</sup> When there is subsidy on petrol, one of the critical pillars (affordability) of energy security in the above definition is met. According to Dike, Nigerians are energy-poor while the country is energy-rich.<sup>7</sup> The subsidy policy aimed to keep the price of petroleum products low, make it affordable to the citizens and create a stable and secure energy supply chain. This is in line with the Constitution.<sup>8</sup> However, the Petrol subsidy policy has been widely criticised for its inefficiencies, corruption, and abuse.

This paper shall examine the implications of the removal of fuel subside on the economic rights of Nigeria.

## 2. History of Fuel Subsidy in Nigeria

Subsidies were initially introduced in Nigeria in the 1970s in response to the 1973 oil price shock.<sup>9</sup> It started with the government routinely selling petrol to Nigerians at below the cost price, however, Nigerians were neither aware of nor in the know.<sup>10</sup> Petrol subsidies were institutionalised in 1977 by General Olusegun Obasanjo's regime to ameliorate the effects of the global 'Great Inflation era' of the 1970s, engineered by the increase in energy prices.<sup>11</sup> Afterwards, the Price Control Act was promulgated,<sup>12</sup> the Act made it illegal for some products, including petrol, to be sold beyond the regulated price. Between 2006 and 2018 Nigeria spent about 10 trillion naira (or US\$ 24.5 billion at the official exchange rate of 411 Naira =US\$1) on petrol subsidies.<sup>13</sup> In 2019 -2020, about 3 trillion Naira (\$ 7 billion) was spent on subsidies. Overall, Nigeria has spent about \$ 30 billion on fuel subsidies over the past 16 years.

The first attempt at removal of petrol subsidy was in 1986 during Ibrahim Babangida's administration, when he announced a partial removal of oil subsidies, which saw petrol prices rise from 20 kobo to 39 kobo per liter.<sup>14</sup> This followed his implementation of the Structural Adjustment Programme as set out by the International Monetary Fund.<sup>15</sup> There was a huge uproar against the decision, which reached a crescendo when workers, students and civil society groups embarked on massive demonstrations across

<sup>4</sup> F Ayanruoh, 'Why Fuel Subsidy removal is good for Nigeria', Vanguard Newspaper <[www.vanguardngr.com](http://www.vanguardngr.com)> accessed 11<sup>th</sup> July 2024.

<sup>5</sup> N Mcculloch and others, 'Fuel Subsidy Reform and Social Contract in Nigeria: a Micro-economic Analysis' <<https://www.icted.ac>> accessed 11<sup>th</sup> July 2024.

<sup>6</sup> AbiolaSoremekun "The Dynamics of Fuel Subsidy in Nigeria" <The dynamics of fuel subsidy in Nigeria | The Guardian Nigeria News - Nigeria and World News — Opinion — The Guardian Nigeria News – Nigeria and World News . accessed April 8<sup>th</sup> 2024.

<sup>7</sup> Dike (n4) 12.

<sup>8</sup> Constitution of the Federal Republic of Nigeria 1999 (as amended), Section 14 (b) .

<sup>9</sup> E Okediran, 'History of Fuel Subsidy in Nigeria', <<https://www.LinkIn.com>> accessed 11 July 2024

<sup>10</sup> S Onyeiwu, Fuel subsidy: bad for the economy but the life blood of Politicians <<https://theconversation.com>> accessed 11<sup>th</sup> July 2024.

<sup>11</sup> Ibid.

<sup>12</sup> Price Control Act 1977, Section (4) 1.

<sup>13</sup> Onyeiwu (n9).

<sup>14</sup> 'Fuel subsidies in Nigeria: they're bad for the economy, but the lifeblood of politicians', <https://theconversation.com/fuel-subsidies-in-nigeria-theyre-bad-for-the-economy-but-the-lifeblood-ofpoliticians-17096> .accessed 8 April 2024.

<sup>15</sup> Ibid.

the country. Massive and sustained protests against Babangida's economic policies played a big role in his hurried exit from power; the following administrations left subsidies in place.

In 2012, an attempt at removal of fuel subsidies was made by Goodluck Jonathan's administration, and the price of petrol became twice as high. One litre of petrol costs about \$1, half an ordinary Nigerian citizen's daily worth.<sup>16</sup> People who were forced to use petrol generators due to the absence of stable electricity were in a rage; there were mass protests against the policy, inhuman treatment of the population of Nigeria by the government, and so on. The protests in the form of civil resistance, civil disobedience, and strikes lasted for a week and stopped; the decision was made to reduce the petrol prices by 30%. In 2016, the subsidies were cancelled once again with the global drop in oil and petrol prices. The government claiming that it was no longer possible to sustain the process, keeping in mind the heavy corruption in the subsidy payment. However, the debate on the total removal of petrol subsidy did not fizzle out as it continues to dominate as a national issue. In 2023 budget, the administration of former President Muhammadu Buhari did not make any provision for petrol subsidy this was why President Bola Tinubu on being sworn in as President unilaterally declared that "subsidy is gone."<sup>17</sup>

### **3. Legal Framework on Petrol Subsidy and Economic Rights of Nigerians**

There is no legal framework for subsidy per se but there are legislations that provide for the control of the price of petrol, distribution and protection of the economic rights of Nigerians. They include the Constitution of the Federal Republic of Nigeria 1999 (as amended), the Petroleum Industry Act 2021, and the Price Control Act 1977. These legal frameworks will be discussed seriatim.

#### **3.1 Constitution of the Federal Republic of Nigeria 1999 (as amended)**

The Constitution of the Federal Republic of Nigeria 1999 (as amended) is the *grundnorm* and forms the foundation for enactments of other laws to regulate the country's affairs. Section 44(3) of the Constitution vests ownership of oil and gas in the government of Nigeria. It states thus: 'Notwithstanding the foregoing provisions of this section, the entire property in and control of all minerals, mineral oils, and natural gas in, under, or upon any land in Nigeria or in, under, or upon the territorial waters and the Exclusive Economic Zone of Nigeria shall vest in the Government of the Federation and shall be managed in such manner as may be prescribed by the National Assembly.'<sup>18</sup> Further, Section 14 (a) provides that Nigeria shall be a state based on the principle of democracy and social justice<sup>19</sup> while Section 14 (b) mandates the government to prioritise the security and welfare of the people.<sup>20</sup> The same constitution states that the resources of the nation shall be harnessed in a way that promotes national prosperity and for the good of the people.<sup>21</sup> The Constitution further specifically stipulates that exploitation of human and natural resources in any form other than for the good of the community shall be prevented.<sup>22</sup> Igwe & Basse argued that 'In Nigeria, the economic system is operated in such a manner that permitted the concentration of wealth and means of production and exchange in the hands of few individuals especially the political class.'<sup>23</sup> Although, under Section 14(2)

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<sup>16</sup> Fuel subsidies in Nigeria: they're bad for the economy, but the lifeblood of politicians', <https://theconversation.com/fuel-subsidies-in-nigeria-theyre-bad-for-the-economy-but-the-lifeblood-of-politicians-17096> .accessed 8 April 2024.

<sup>17</sup> 'Fuel subsidy is gone: Tinubu declares' <<https://www.premiumtimesng.com/news/top-news/601239-fuel-subsidy-is-gone-tinubu-declares.html?tztc=1>> accessed 8 April 2024.

<sup>18</sup> CFRN 1999 (as amended), Section 44(3).

<sup>19</sup> CFRN 1999, Section 14 (a).

<sup>20</sup> CFRN 1999, Section 14 (b).

<sup>21</sup> Ibid, Section 16 (a) (b).

<sup>22</sup> Ibid, Section 17 (d).

<sup>23</sup> IO Igwe & AI Basse, 'Review of the Impacts of Poverty on Access to Justice in Nigeria.' (2021) 12(2), *Nnamdi Azikiwe University Journal of International Law and Jurisprudence*, 190.

of the constitution, the above-mentioned are not enforceable,<sup>24</sup> however, elsewhere in India, similar provisions have been held to be fundamental and enforceable such as in the case of *Minerva Mills Ltd v. Union of India*.<sup>25</sup>

### 3.2. Petroleum Industry Act 2021

The Petroleum Industry Act is the primary legislation governing oil and gas in Nigeria. It provides that the Property and ownership of Petroleum within Nigeria and its territorial waters, continental shelf and exclusive economic zone is vested in the Government of the Federation.<sup>26</sup> This has received judicial blessing from the Supreme Court in the case of *Attorney General of the Federation v Attorney General Abia State*.<sup>27</sup> The Petroleum Industry Act provides that the objective of the authority shall be to promote the supply and distribution of natural gas and petroleum products in the midstream and downstream petroleum operations and the security of natural gas supply for domestic gas market.<sup>28</sup> The Act also mandates the authority to provide pricing based on their fair market value and ensure security of supply by regulating the supply, distribution and retailing of petroleum products.<sup>29</sup> The Act further states that the authority shall have the power to make regulations that ensure the continuity and security of supply of petroleum products to customers.<sup>30</sup> Similarly, Section 64 (k) states that the NNPC shall carry out tasks requested by the commission or authority on a fee basis and generally engage in activities that ensure national energy security efficiently, in the overall interest of the Federation.<sup>31</sup> The Act also states that the exploration and exploitation of petroleum resources should be for the benefit of the Nigerian people and that safe and affordable access to petroleum products should be a priority.<sup>32</sup>

### 3.3. Price Control Act 1977

The Price Control Act establishes the Price Control Board and the Price Control Committee for both the Federal and State government.<sup>33</sup> The primary duty of the Board is the imposition of price control in line with the provisions of the Act on any goods that are stipulated in the first schedule of the Act.<sup>34</sup> The Act provides that price control shall continue to be imposed in accordance with the act on any goods as specified in the first schedule of the Act.<sup>35</sup> The Act further provides that it shall be unlawful for any person to sell, agree to sell, or offer to sell any or employ any other person, whether or not that person is of full age, to sell any controlled commodity at a price which exceeds the controlled price<sup>36</sup> It further provides as follows in Section 1 that if any person contravenes Subsection (1) of this section in respect of any controlled commodity-

(a) he shall be guilty of an offence and shall-

- (i) in the case of a retailer, be liable to a fine of not less than ₦200 and not more than ₦2,000 or to imprisonment for not less than six months, or both such fine and imprisonment; and
- (ii) in the case of a manufacturer, wholesaler, or major distributor, be liable to a fine of not less than ₦ 1,000 and not more than ₦10,000, or to imprisonment for not less than twelve months, or to both such fine and imprisonment; and

<sup>24</sup>Ibid, Section 14 (2).

<sup>25</sup> Air 1980 SC 1780.

<sup>26</sup> Petroleum Industry Act, 2021, Section 1.

<sup>27</sup> [2002] 4 NSCC 51.

<sup>28</sup> (n12), Section 31 (e).

<sup>29</sup>Ibid, Section 32 (e), (n) and (w).

<sup>30</sup>Ibid, Section 33 (q).

<sup>31</sup>Ibid, Section 64 (k).

<sup>32</sup>Ibid, Section 66 (1) (a) and (h).

<sup>33</sup> Price Control Act (n13).

<sup>34</sup>Ibid, Section 4 (1).

<sup>35</sup> Price Control Act, 1977, Section 4.

<sup>36</sup>Ibid, Section 6 (1).

(b) The stock of the controlled commodity shall be liable to forfeiture.

(2) Where a person is convicted of any offense under subsection (2) of this section in respect of any commodity, the court shall make an order forfeiting the stock of the commodity; and, where such an order is made, the commodity shall be disposed of by the Board as it thinks fit, any proceeds of the disposal being paid into the Consolidated Revenue Fund of the Federation. Control commodities listed in the first schedule include petrol.<sup>37</sup>

The Act also criminalizes hoarding of controlled commodities such as petroleum products, and on conviction shall (i) In the case of an individual be sentenced to imprisonment for not less than six months without the option of fine, and (ii) In the case of a body corporate be sentenced to a fine not less than N 5,000 and the stock of controlled commodity shall be liable to forfeiture.<sup>38</sup>

#### **4. Economic Rights Infraction by the Removal of Petrol Subsidy**

As mentioned above, Economic rights are guaranteed under the Constitution of Nigeria 1999 (as amended), Price Control Act 1977, Petroleum Industry Act 2021, as well as other International Instrument such as the African Charter on Human and People Rights (ACHPR), the International Convention on Civil and Political Rights (ICCPR), the International Covenant on Economic and Socio-Cultural Rights,(ICCSCR) and the Universal Declaration of Human Rights(UNDHR).For further elucidation, These rights will be highlighted as follows.

##### **4.1 Welfare**

Welfare is which is among the first and foremost duty of government. It means health, happiness, and fortune; therefore, for people to be happy and healthy, they need to be able to enjoy the use of natural resources, especially Petrol, which is central to the well-being of the economic lives of citizens, the removal of petrol subsidy means that welfare of the people will suffer as it will result in the inability of people to afford basic everyday need due to the astronomical rise in the pump price of petrol, especially because many Nigerians provide their electricity for their personal use and businesses because the country's electricity generation is poor compared to its population.<sup>39</sup> Since the removal of subsidy on May 29 2023, the Nigerian economy has nosedived concerning the prices of goods and services. Nigeria is battling with high-level inflation.<sup>40</sup>A situation where an individual cannot afford to buy fuel for business or personal use can deprive someone of his happiness or health, and this is contrary to the provisions of the Constitution. What, then, is the need to prevent the use of natural resources other than the good of society?

##### **4.2 Right to Dispose of Natural Resources in the Exclusive Interest of the People**

This is an economic right that gives the people to dispose off natural resources for their exclusive and good use. In *Odofo & Ors v AG Federation the Court* decided on the socio-economic rights of prison inmates to medicare based on the provisions of the ACHPR. In *Ubani v Director SS*,<sup>41</sup> the court held that the state has a responsibility to the entire inmate in prison regardless of the offence. In Socio-

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<sup>37</sup>Ibid, Schedule 1.

<sup>38</sup> Ibid, Section 6 (4) (a) (i) & (b).

<sup>39</sup> Nigeria Electricity Production < [https:// www.ceicdata.com/en/ indicator/nigeria/electricity –production](https://www.ceicdata.com/en/indicator/nigeria/electricity-production)> accessed June 4<sup>th</sup> 2024.

<sup>40</sup> A Agbetiloye, Nigeria faces 35% naira depreciation and 44% inflation peak –IMF < [https://africa.businessinsider.com/local/markets/nigeria-faces-35-naira-depreciation-risk-and-44-inflation-peak-imf/85fvlmm #:~:text=The%20International%20Monetary%20Fund%20%28IMF%29%20sa.](https://africa.businessinsider.com/local/markets/nigeria-faces-35-naira-depreciation-risk-and-44-inflation-peak-imf/85fvlmm#:~:text=The%20International%20Monetary%20Fund%20%28IMF%29%20sa.) accessed 27<sup>th</sup> May 2024 .

<sup>41</sup> (1999) LLJR-CA.

Economic Right and Accountability Project (*SERAP*) v *FGN*,<sup>42</sup> Plaintiff sued in the ECOWAS Community Court to compel the government to enforce Nigerians' right to education. The Defendant submitted that the right to education is non-justiciable by virtue of Section 18 of the Constitution of the Federal Republic of Nigeria 1999. However, the Court held that the Directive Principles of State Policy of the FRN are not justiciable per se before the court. If they were, it should be heard at the Federal High Court of Nigeria, but the plaintiff came under Article 17 of the African Charter, which is justiciable in the Court as it is independent of the provisions of chapter II of the CFRN 1999. These are activism in action, and the courts must be commended for her boldness. Most resounding is the celebrated case of Centre for Oil Pollution Watch V Nigeria National Petroleum Corporation (NNPC)<sup>43</sup>The Supreme Court clarified that 'every person, including NGOs, who bonafide seek the due performance of statutory functions or enforcement of statutory provisions or public laws, especially laws designed to protect human lives, public health and the environment, should be regarded as proper persons clothed with standing in law to request adjudication on such issues of public nuisance.'

The Supreme Court also acknowledged that recognising public interest litigation would help address some other barriers to access to justice, as poor communities without 'the financial muscle to sue' which usually and disproportionately bear the brunt of environmental and climate change problems will have the benefit of public spirited persons and organisations fighting their cause. It is submitted that this government action to remove the petrol subsidy should be challenged through a class action or Non-governmental organisation. On the contrary, one may argue that the government is prepared to protect and provide economic means to the people even when an action cannot be brought against it for not performing. Even the least appreciative of citizens would acknowledge the government's bold steps to provide social amenities in the country. While we pray that the outcome of the government's efforts in combating this ugly economic hardship in Nigeria is positive, we cannot turn our eyes so blind as not to know that where Petrol affordability is secondary in the national plan, a constitutional provision such as 'exploitation of natural resources other than the good of the citizen shall be prevented, and welfare of the people shall be the primary purpose of government' is nothing short of hypocrisy and glaring fallacy. For how long will Nigeria remain 'one indivisible and indissoluble sovereign state' with so many problems developing within due to the schisms resulting from the insecurity of petrol in its various municipalities? Section 33(2)(a) is indeed a fitting proviso. Ours has become the proverbial clan of crabs where each crab must take care of its own burrow. The removal of subsidy practically deprives the populace of their means of subsistence because, as stated above, the removal of fuel subsidy has caused the hike in the pump price of fuel, and many Nigerians who survive through the use of fuel for their businesses cannot afford to buy the fuel as result their businesses are failing. Also, the ripple effect of fuel increment is high inflation on the cost of living. This has caused many to be denied their means of subsistence, and benefit from the proceeds of natural resource exploitation in a manner that satisfactorily serves the citizens' economic, social, and cultural needs. Exploiting oil in the oil-producing areas has severe consequences for the people. It results in oil spillage, the destruction of farmlands, the degradation of the ecosystem, and the disempowerment of the people. Despite the vast oil revenue generated by the country, the communities remain in abject poverty without basic social infrastructure and any means of livelihood and empowerment and cannot afford economic hardship due to the removal of petroleum subsidy.

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<sup>42</sup> ECW/CCJ/APP/0808(ECOWAS 2009).

<sup>43</sup> [2019] 5 NWLR (Pt.1666) p.518

### **4.3 Human Dignity**

The word 'dignity, in its simplest terms, is about recognizing the worth of the other as somebody.'<sup>44</sup> The right to human dignity instructs us on the reason human rights are pertinent for the civilized existence of the human race. Human dignity is inviolable. All state powers have a solemn duty to protect and respect it. Gewirth had succinctly and rightly stated regarding the nexus between human dignity and human rights as follows: 'The relationship between human dignity and human rights are many and complex, but one relation is primary: human rights are based upon or derivative from human dignity. It is because humans have dignity that they have human rights.'<sup>45</sup> Human dignity is not created by the individual. He is born with it. It is natural and inherent in humans. The state and private persons have to respect the dignity of human persons *Abodunrin v Arabe*,<sup>46</sup> the court held that individuals have the right to respect the dignity inherent in human beings and to the recognition of their legal status.

Dignity as used in the various provisions of the laws afore stated does not imply the state of being noble or honourable or elevation of status in an endeavour or trade. In *Uzoukwu v Ezeonu*,<sup>47</sup> it was held that dignity means being regarded in one's exalted estimation of his social status or social standing. The state where humans do not have the economic means to afford the most necessary commodity of life reduces their human dignity. Igwe queried thus, 'The question remains, can the right to dignity of human person be meaningful to people who cannot afford the tripartite needs of life to wit: food, shelter and cloth?'<sup>48</sup>

### **4.4 International Instruments in Support of Economic and Welfare Rights**

The covenant on Civil and Political Rights provides that all peoples may, for their ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic cooperation, based upon the principle of mutual benefit and international law. In no case may a people be deprived of their means of subsistence.<sup>49</sup> The same is provided for in the Covenant on economic rights; it reads thus, that all peoples may, for their ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic cooperation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of their means of subsistence.<sup>50</sup> The covenant recognises the right of workers to favourable conditions of work, fair wages, reasonable remuneration and a decent living.<sup>51</sup> Also, nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize their natural wealth and resources fully and freely.<sup>52</sup> The Covenant provides that the right of all peoples to enjoy and utilize their natural wealth and resources fully and freely is inherent; by these provisions, the people are meant to enjoy the use of petroleum resources by virtue of their humanity. The people's right to an adequate standard of living, food, clothing, housing, and continuous improvement of their living conditions is provided for in Article 11

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<sup>44</sup> Y Olumojobi, *Human Rights and Civil Liberties in Nigeria: Discussions, Analysis and Explanations* (2<sup>nd</sup>edn Lagos: Princeton and Associates Publishing Co. Ltd (2018). P 17.

<sup>45</sup> A Gewirth, *Human Dignity as the basis of Rights in Michael JMayer and W A Parent (eds), The Constitution of Rights: Human Dignity and American values* (Cornells University press 1992) 10-28.

<sup>46</sup> (1995) 5 NWLR (Pt.393) 100 at 112.

<sup>47</sup> (1991) 6 NWLR (Pt 200) 708 at 778.

<sup>48</sup> IO Igwe, 'Appraisal of the Interrelatedness of Social and Economic Rights with Right to Dignity of Human Person in Nigeria.' (2022) vo.2 Issue 1, *Redeemer's University of Nigeria Journal of Jurisprudence and International Law*, 9.

<sup>49</sup> International Covenant on Civil and Political Rights 1966 Art 1(2).

<sup>50</sup>Ibid.

<sup>51</sup>Ibid, Art 7.

<sup>52</sup>Ibid, Art 25.

of ICESCR. These provisions impose obligations on states to protect these rights in favour of their indigenous communities.

## 5. Lessons from Other Jurisdiction before Removal of Petrol Subsidy

### 5.1 Egypt

The Constitution of Egypt provides that the state of Egypt is based on social solidarity; the state shall achieve social justice and provide the means to achieve social independence to ensure a decent life for all citizens.<sup>53</sup> The provision of equal opportunities for all Citizens without discrimination is also paramount.<sup>54</sup> Just like Nigeria, Egypt is an oil-producing nation and also operates a state-centred economy. The Egyptian government like many of the countries in the MENA region, has employed relatively large energy subsidies for decades, justified as a means of augmenting the incomes of lower-income and middle-class households through low-cost energy services. More than one-half of the government's total amounts of resources devoted to energy subsidies were applied to petroleum products.<sup>55</sup> The country was faced with an economic crisis with low forex reserves and endemic shortages of bread, electricity and other consumer goods including fuel, this was driven in part by the subsidy system. There was broad recognition across Egyptian government ministries, the public, businesses, academics and foreign investors that fossil fuel subsidies were a key part of the country's fiscal problems.<sup>56</sup> The argument was also that the subsidies disproportionately favoured wealthier people, who consumed more petroleum products: the wealthiest 20% of households enjoyed 46% of the benefits in absolute terms, and the poorest 20% received just 9% of total subsidy spending.<sup>57</sup> In July 2014, Egypt introduced energy cuts, the subsidy reduction were set out as first steps in a five year program to eliminate energy subsidies entirely.<sup>58</sup> Before the subsidy was removed Government started the policy reform of implementing the following:<sup>59</sup>

- a. Appointing Technocrats to man key positions.
- b. An electronic tracking system for fuel supplied from refineries and stores to petrol station. This exposed hundreds of phantom petrol stations and cut smuggling of subsidized products to Gaza and Turkey.
- c. A Pilot scheme to give smart cards to drivers, which they present when buying petrol or diesel at petrol stations –for tracking rather than cost –control. The government adopted several new social protection measures to ease the burdens on lower-income families, such as
- d. President Abdel Fatah Al-Sisi announced a significant budget cut in the Cost of governance.

When Subsidy removal was finally implemented, the government also adopted several new social protection measures to ease the burden on lower-income families, such as:<sup>60</sup>

- a. Extending the food subsidy program to 20 new staple products, including bread, rice, sugar, tea, flour and oil, meat and vegetables passed in June 2014 — one month before the subsidy reform —

<sup>53</sup> Constitution of the Arabic Republic of Egypt 2014 art 8.

<sup>54</sup> Ibid.

<sup>55</sup> P Griffin et al –Egypt; Guiding reforms of Energy Subsidies long term < [https:// documents1. worldbank .org/curated/en/ 310781467988953360/ pdf/WPS7571. Pdf](https://documents1.worldbank.org/curated/en/310781467988953360/pdf/WPS7571.Pdf) > accessed June 6<sup>th</sup> 2024.

<sup>56</sup> Egypt: Transitioning away from subsidizing fossil fuels < [https://www.wri. org/update /egypt- transitioning- away-subsidizing- fossil-fuels](https://www.wri.org/update/egypt-transitioning-away-subsidizing-fossil-fuels)> accessed June 6<sup>th</sup> 2024.

<sup>57</sup> Ibid.

<sup>58</sup> L M James –Recent development in Egypt's fuel subsidy reform process < [https://www.issd.org// gsi/sites/default/files](https://www.issd.org//gsi/sites/default/files) > accessed June 6<sup>th</sup> 2024.

<sup>59</sup> Ibid

<sup>60</sup> (n 2).



- to mitigate likely rising food prices due to higher input costs for farmers and more expensive distribution.
- b. Introduction of two stimulus packages in August 2013 and January 2015 included an increase in the public-sector minimum wage; this was financed by a \$12 billion support package from Gulf countries, which also provided \$3 billion worth of fuel supplies to help offset ongoing energy shortages.
  - c. Expanding social security pensions in the 2014-2015 budget to cover an additional 825,000 families for a total of 2.3 million families, with the average monthly benefit increasing by almost 50% to 386 EGP (about \$54 at the end of 2014).
  - d. Increasing taxes on the wealthy and a new capital gains tax on businesses showed the public the government's commitment to preventing the reform's unfair adverse impacts.
  - e. The Central Bank adjusted interest rates to mitigate the increase in the headline consumer price index, which rose from 8.2% in June 2014 to 11.8% in October 2014, mainly due to the rise in energy prices. The Bank's intervention brought it back down to 7.8% by November and ensured the financial support retained its purchasing power.
  - f. Mitigating the rise in transport prices was one of the most significant challenges, as the cost of diesel, which made up almost half of Egypt's total subsidies, increased by 64%. Following a dramatic increase in transport fares — 11.2% according to official estimates, but up to 50% or even 100% according to other sources — the government offered free transport on army buses to lower-income households.

The strength of the above outlined is that there was energy subsidy reform paired with social policies that yielded clear benefits for lower-income households, which helped to increase trust in the government and decrease opposition to the reforms. Also, there was clear, advanced communication from the government: This helped citizens understand the plans and how the reforms would affect them. These strategies and policies are in tandem with the constitution's provisions about social justice, equal opportunities, and a decent life for all its citizens. Low energy prices have been an intrinsic part of the social contract in democratic countries, including Egypt. If economic opportunity and social protection policies which is a country's foremost method of distributing welfare are not available then, the contract is deemed breached. The key characteristic of that social contract is the exchange of people's loyalty to the country's regime of leadership for a government-driven distribution of welfare. In practice, this means that the state was given a monopoly on Egypt's economy, including the exploitation of hydrocarbons and other resources. In exchange, the government was expected to provide public employment and subsidized food, energy, housing, social security, and so on.

## **5.2 India**

Like Nigeria, the Constitution vests all properties, assets, and things of value within territorial waters or continental shelf and resources of the exclusive zones and all minerals and lands on the Union.<sup>61</sup> The Constitution mandates the state of India to provide policies that ensure that all citizens have the right to adequate means of livelihood.<sup>62</sup> It also stipulates that ownership and control of the community's material resources must be distributed as best as possible to serve the community's good.<sup>63</sup> This pro-people policy provision in the constitution of India is in line with the social contract theory that enjoins the government to provide for the welfare of the People, which also includes a good living wage and conditions of work, ensuring a decent standard of life and full enjoyment of leisure.<sup>64</sup> India's energy

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<sup>61</sup> Indian Constitution 2021, Sections 296 and 297.

<sup>62</sup> Indian Constitution 2021, Section 39.

<sup>63</sup> Ibid.

<sup>64</sup> Ibid, Section 43.

sector is changing rapidly in response to increasing demand, the rise of clean energy, and the imperative for energy security. Government policies—particularly financial support—are hugely influential in determining how the sector develops, including the direction of private sector investments, energy access, and the benefits and costs for the people of India. India's subsidy policy balances various objectives: sustaining economic growth, achieving universal access, and powering prosperity while also reducing air pollution, water use, and carbon intensity. India adopted a phase-out policy that subsidizes the entire energy sector but with a systematic reduction of subsidies on fossil fuels. The long-term solution to the energy crisis lies in reducing demand for fossil fuels and increasing investment in renewable energy and other low-emissions technology. One way to achieve this change is to shift subsidies from fossil fuels to renewables and emerging clean technologies.<sup>65</sup> India Implemented several measures and policies to mitigate these impacts, including capping retail prices, including petrol and diesel, reducing taxes, and providing direct budgetary transfer to businesses and consumers.<sup>66</sup>

The Indian government allocated **Rs 30,000 crore** to state-owned fuel retailers. This financial support aims to compensate for these companies' significant losses by holding petrol and diesel prices despite rising costs. The decision was made to help the government manage inflation. The Indian subsidy reform was done with timing in mind; its subsidy reform was largely implemented during a period of low oil prices, which caused oil and gas subsidies to drop from INR 158,483 crore (USD 26.2 billion) in the fiscal year 2014 to INR 67,679 crore (USD 10.1 billion) in the fiscal year 2019.<sup>67</sup> Also, when global prices crashed again in early 2020, The Indian government took advantage of the price drop and raised the duties on fuel without straining consumers as retail prices remained stable.<sup>68</sup>

## 6. Conclusion and Recommendations

The paper has shown that Nigeria's Petrol subsidy removal is an affront to many legal provisions as it relates economic rights of Nigerians. The legal implication of the removal of petrol subsidy is that it will have effects on the right of Nigerians to use and benefit from its given natural resources and for the government to harness natural resources to promote national prosperity for the good of the people as provided for in Sections 15, 16 and 17 of the Constitution of Nigeria 1999 (as amended). The findings of this paper also show that the removal of Petrol subsidy will affect the Economic Rights of Nigerians as guaranteed by the Constitution and the International Covenant on Economic and Social Cultural Rights, as well as other International treaties, as it will deny the people their means of livelihood. The removal was done without proper planning or putting measures in place to mitigate its negative effects on vulnerable Nigerians, this act is deemed to be insensitive and anti-people.. Also, not putting the moribund and comatose refineries in functional state smacks of irresponsibility on the part of the government as the government is still dependent on the importation of fuel, and marketers of the product will take advantage of the situation to exploit the unsuspecting public by hiking the price of the product. It has also inflicted so much pain and hunger on ordinary Nigerians, and this is against the Millennium goals. It is therefore recommended as follows

1. The Federal Government should rescind the policy and return to providing petrol subsidy for Nigerians, and if necessary, begin a gradual phase-out of the policy, as done in Egypt and India.
2. Economic and welfare rights should be made justiciable as they are obtainable in India.
3. The government should reduce taxation on the poor, and the Central Bank of Nigeria should reduce interest rates.

<sup>65</sup> V Grag *et al* ; India's Energy transition < [https://www.iiste.org/journals/ publications](https://www.iiste.org/journals/publications) < accessed 7<sup>th</sup> June 2024

<sup>66</sup>Ibid.

<sup>67</sup> L Sanchez *et al*, 53 ways to reform fossil fuel consumer subsidies and pricing <<https://www.iisd.org/articles/deep-dive/53-way-reform-fossil-consumer-subsidies-and-pricing->> accessed 19<sup>th</sup> June, 2024

<sup>68</sup> Ibid.

4. The Government should prioritize the welfare of citizens by providing palliative measures such as:
  - (a) subsidizing food items.
  - (b) Disbursing stipends to the most vulnerable, aged, unemployed Nigerians.
  - (c) Procure CNG buses to aid in reducing the cost of transportation.
  - (d) Design new approaches to reaching the informal sector by providing financial aid to medium— and small-scale businesses, farmers, and entrepreneurs and ensure that this aid reaches the intended beneficiaries.
5. Workers' salaries should be reviewed upward.
6. The Federal Government should declare a state of emergency over the three refineries as a national priority and, if possible, privatize them for optimal petroleum product