

**DEVELOPING A PROGRESSIVE PUBLIC FINANCE PROGRAMME TO
COUNTER NEOLIBERALISM: THE NIGERIAN EXPERIENCE**

BY

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ABSTRACT

This paper locates recent tax reforms in Nigeria within the context of neoliberalism, which advocates removal of subsidies, sale of public assets and transfer of responsibility for provision of public goods to the private sector. The paper argues that such neoliberal policies constitute heavy indirect taxes. In particular, taxes imposed on critical goods such as petroleum products, not only raise the prices of the critical goods themselves but also adversely affect the prices of other goods and services, thereby deepening poverty in the country. The paper identifies the multiple indirect taxes in Nigeria and assesses the contradictory trend of reduced tax burden on businesses, including multinationals whilst increasing the tax burden suffered by the majority of the population. This is contradictory, both because the policy is implemented in the name of poverty reduction whilst increasing the poverty of the majority of the population, and also because it makes the widely recognized Millennium Development Goals less likely to be achieved. Relying on, for example, the democratic rights contained in Chapter II of the existing Constitution of the Federal Republic of Nigeria and the UN's Universal Declaration of Human Rights, the paper advocates an alternative programme of public finance. This programme has the perspective of enhancing the capacity of independent civil society organizations, particularly trade unions and progressive political parties to initiate and sustain collective struggles by the poor for access to essential goods and social services as a minimum irreducible fundamental right.

1 INTRODUCTION

Public finance is generally concerned with the ways and manners by which governments raise revenue to finance the responsibilities of governance, including provision of strategic goods and services, infrastructural facilities and social services as well as the establishment of economic enterprises for the supply of critical goods which the private sector may not find profitably attractive.

Governments gain their revenue from taxes and other sources. Taxes may be direct or indirect. Direct taxes include income taxes on personal income and business profit tax. Indirect taxes include consumption taxes such as value-added, sales and trade taxes. Non-tax income may include grants from donors, income from natural resource extraction, marketing board surpluses, rent on government property, interest on loans, taxes on public utilities for supply of water, electricity, airfields, car parks, roads, docks, issuance of licenses and permits. If government revenue is not sufficient to finance its expenditure then the balance may be borrowed from domestic or foreign sources.

In recent years inequality both within countries and between countries has increased. Thus between 1960 and 1995 the gap in per capita income between the richest fifth of the world's people (most in developed countries) and the poorest fifth (most in developing countries) nearly tripled from 30:1 to 82:1 (Marfleet 1998).

As a consequence, there is increasing recognition that inequality both within and between countries is a serious impediment to economic growth and that one of the key objectives of all governments should be to try and reduce or at least mitigate this inequality. One of the main components of the Millennium Development Goals is having the number of people living in extreme poverty by 2015. The World Bank's World Development Report for 2006 has as its theme equity and development and concludes that "greater equity can, over the long term, underpin faster growth". These views are supported by the United Nation's Human Development Report 2005 on *aid, trade and security in an unequal world*. Thus there is an increasing recognition that governments have to do more than merely ensuring an environment in which private enterprise can thrive. Governments also have responsibility for maintaining equity and avoiding the extremes of poverty and wealth.

It is now widely accepted that taxation itself should be used as part of this attempt to reduce inequality in society. Income tax means that the more an individual earns the more tax they pay. Thus the rich should pay more in tax and as tax rates generally increase with income, the rich will pay a greater proportion of their income as tax. On the other hand, if tax is based on consumption, the poor tend to bear heavier tax burden because they tend to spend a great portion of their income on basic items of consumption. Therefore, income tax is more equitable than consumption based taxes. Fiscal policy is also determined by the levels and types of expenditure undertaken by the government. Consequently, when a government fails to fund, reduces funding or entirely stops the funding of certain strategic goods and services, this is equivalent to indirect taxation of

the poor who must begin to pay individually or pay higher prices for such strategic goods and services.

This paper locates recent tax reforms in Nigeria within the context of neoliberalism, which advocates removal of subsidies, sale of public assets and transfer of responsibility for provision of public goods to the private sector. The paper argues that such neoliberal policies constitute heavy indirect taxes. The paper therefore offers an assessment of the contradictory trend of reduced tax burden on businesses, including multinationals whilst the tax burden suffered by the majority of the population through imposition of multiple indirect taxes increases. Relying on the democratic rights contained in Chapter II of the existing Constitution of the Federal Republic of Nigeria, the African Union's African Charter on Human and Peoples Rights, and the UN's Universal Declaration of Human Rights, the paper advocates an alternative programme of public finance.

This section of the paper has provided an introduction to the arguments. The following section provides the background to neoliberalism, its origin and failures, its attitude to taxation and an overview of the history of taxation in Nigeria. The third section of the paper provides a detailed review of the implementation of neoliberal tax policies in Nigeria with the resulting subsidy of capital and increased taxation of labour and the poorer sections of society. The fourth section begins a process of developing an anti-poverty public finance programme which could be used to organise the collective action which would be needed for its actual implementation. The final section provides an overview and conclusions.

2 NEOLIBERALISM AND THE BACKGROUND TO THE CURRENT REFORMS IN NIGERIA

This section of the paper provides a definition of public finance, develops a conceptual understanding of neoliberalism, its origin and failures, neoliberalism and taxation and an introduction to the history of taxation in Nigeria.

What is Public Finance?

In this paper, our understanding of public finance is aptly captured by the insight offered by *Kaul and Conceição (2006:8)* who contended that:

As currently viewed, public finance is expected to help provide public goods and to foster equity. Promoting allocative efficiency is the main rationale for government interventions to support public goods provision, whether financial (subsidies or tax credits) or non-financial (regulation). Hence, the public goods-oriented branch of public finance is referred to as the efficiency or allocation branch, with a focus on issues and on particular goods.

The equity or distribution branch of public finance, seen to support society in realizing its goals of fairness and justice, may sometimes have to achieve its objectives through income redistribution and transfer payments. Its main focus is on actors, mainly groups of vulnerable actors such as poor people or people with disabilities'

Public Finance and Oil Wealth

Nigeria is an oil rich country. The bulk of Government's income comes from oil revenue. An equitable public finance programme would ensure that the country's oil wealth serves the needs of the majority, rather than, as is the case currently, the greed of the few.

Over \$400bn was realized from sale of Nigeria's Niger Delta crude oil in the last four or five decades with little or no benefits accruing to the ordinary people who are merely subjected to environmental pollution and human rights abuses (Rowell, Marriot and Lorne, 2006).

The former President of the Nigerian Association of Petroleum Explorationists (NAPE), Austin Avuru (cited in Daily Champion, 22 November 2006:21) also asserts that from the first commercial oil discovery in 1956, at Oloibiri, Bayelsa State, to the recent discovery, in the deep water ZabaZaba field, some 60 billion barrels of oil and 187 trillion cubic feet of gas have been discovered. Of these, 27 billion barrels of oil (or 45%) and 13 trillion cubic feet of gas (or about 7%) have been produced earning \$400bn from export on the international market.

It is estimated that the oil windfall has placed production of some 95% of the nation's export earnings in the hands of just 2% of the population (Avuru, 2006). Whilst a significant proportion of the population is left to scramble for a share of the crumbs from this oil wealth, suffering, widespread unemployment, frustration and instability,

particularly in the Niger Delta region, are the common experiences. Thus, Nigeria's oil resource, which should be a blessing, in terms of its contribution to improving the wellbeing of the people, has been turned into a resource curse. As the Nobel Laureate economist and facilitator of Initiative for Policy Dialogue (IPI), Professor Joseph Stiglitz, pointed out on a recent visit to Nigeria, resource curse is not a feature of resource occurrence but a fall out from mismanagement of revenue accruing from the exploited natural deposit, which is nothing but an index of corruption in political administration of the country (Cited in Daily Champion, 22 November 2006: 21). This breeds discontent for the vast majority of the population, particularly in the communities hosting the oil companies, arising from the contradiction of stupendous wealth on the one hand and awesome poverty on the other.

Though there is the possibility of discovering additional 40 billion barrels of oil and 120 trillion cubic feet of gas, it is feared that Nigeria's oil will only last another 50 years (Avuru, 2006:21, cited in Daily Champion, 22 November 2006:21). This deepens the demand for a radical change in public finance policy to ensure that the squandering of the oil resources by a few and abject poverty of the majority is not perpetrated for the next 50 years.

What is neoliberalism?

In assessing neoliberalism, Heywood (2003:54) claims that it is a counter-revolutionary ideology in that it aims 'to halt, and if possible reverse the trend towards 'big' government and state intervention that had characterized much of the 20th century' Heywood (2003: 55). This author also points out that neoliberalism is a form of market fundamentalism and thus goes beyond classical liberalism in that it opposes any form of political control of the economy. Free market economists and supporters of neoliberalism, like Hayek for instance, attack the economic role of government on the grounds that it amounts to totalitarianism, is against individual freedom and that bureaucracy tends to render government planning inefficient.

Neoliberals perceive existence of public enterprises and/or government involvement in the economy as *the* obstacle to economic development. They therefore advocate commercialization and privatization of existing public enterprises and the promotion of the private sector as *the* engine of economic growth (Harvey 2005).

The current Nigerian Government is committed to a neoliberal agenda whose main components are privatization, liberalization, commercialization and deregulation. This is outlined in its economic programme, the National Economic Empowerment and Development Strategy (NEEDS). This approach gains strong ideological and economic support from, amongst others, the IMF, the World Bank, the OECD and the ACP-EU Agreement. In turn, the Nigerian Government is active in promoting this approach across the rest of Africa through the New Partnership for Africa's Development (NEPAD).

The Origins of neoliberalism

The post-1945 consensus was that the state was central to economic development. It was widely accepted that it had a direct role to play through state owned industries. In addition, the mainstream view was that the economy should be actively managed through

Keynesian demand management to maintain full employment (Rees 2006). The state was seen as having the following responsibilities:

- provide affordable services to the working class and poor
- re-distribute wealth
- regulate economic activity to protect workers and the environment.

The World Bank, established with the advice of Maynard Keynes, supported this view by providing loans to the governments of developing countries. As a result it was vilified by the Wall Street Journal and others for 'promoting socialism' in the developing countries (Leys 2001).

As the economic crisis of the early to mid 1970s began to develop, and in reaction to the rise in working class activity and socialist politics, supporters of neoliberalism became active. In a number of countries they began to campaign for a change to the developmental or welfare state (Rees 2006). Some of the changes they advocated were:

- selling off state-owned enterprises, especially in manufacturing, mining and telecommunications.
- a reduction in government spending on social services and a general move toward 'fiscal discipline'
- the introduction of fees or increased charges for services like health, transport and education
- lowering company taxes and income tax on the rich
- introducing sales tax such as VAT.

Implementation of the neoliberal agenda

The neoliberals gained state power with Margaret Thatcher in the UK and especially with Ronald Reagan in the US. But their policies were heavily contested. neoliberalism replaced Keynesianism as the economic orthodoxy only as a result of major political and ideological struggles. Reagan had to sack all the US air traffic controllers in 1981 and only managed to defeat their strike because other air industry workers crossed picket lines. After a year long coal miners strike in 1984/85 Thatcher only just won and had to close down the coal mining industry which had been one of the main industries in Britain employing over 1 million miners (Rees 2006). These attacks led to a generalised defeat for the trade unions and so enabled Reagan and Thatcher to implement their policies.

When Reagan came to power in 1981 he forced up interest rates to record levels. This helped to precipitate world-wide deflation and increased unemployment which also assisted the attack on organised workers. Reagan also used his voting rights and power to appoint the president to change the World Bank's president and philosophy from June 1981. As Budhoo said when resigning from the IMF, "President Reagan effectively told

us to go out and make the Third World a new bastion of free wheeling capitalism, and how we responded with joy and a sense of mission! ...Everything we did from 1983 onward was based on our new sense of mission to have the south 'privatised' or die". (Harvey 2005).

Escalating interest rates, worsening terms of trade and another round of oil price rises greatly increased the level of debt owed by the governments of developing countries (from around \$100 billion in 1973 to nearly \$900 billion a decade later) and undermined their ability to deal with the problem.

The debt burden gave the World Bank the leverage it needed to implement its newly adopted neoliberalism through structural adjustment policies across the non-industrialised world. By the late 1980's over seventy developing countries had been submitted to the World Bank and IMF's structural adjustment programmes. Again these policies were met with stiff opposition with strikes and IMF riots in many countries (Zeilig 2002). The structural adjustment programmes almost invariably included the following elements:

- reduced government spending and greater fiscal discipline to control inflation
- removing import controls and restrictions on foreign investment
- privatisation of state enterprises
- devaluation of the currency
- making labour more flexible by reducing legal protection, food subsidies and minimum wages.

Susan George is only exaggerating slightly when she writes: "In 1945 or 1950, if you had seriously proposed any of the ideas and policies in today's standard neoliberal toolkit you would have been laughed off the stage or sent to the insane asylum."

The neoliberal conception of the state has permeated World Bank policy making for the last 25 years. This assumes that states are inherently inefficient, that state officials always act in their own self-interest and that state intervention has to be limited to market-friendly action such as investment in education and training, creation of a competitive climate for business, and maintaining a stable macro-economy.

The Failure of neoliberalism

Two decades of structural adjustment programmes (more recently renamed poverty reduction strategies) has not led to greater modernisation and competitiveness for the third world. Economic growth has been irregular and insufficient and fallen short of the levels achieved in the 1960's. The absolute number of people existing on less than \$1 a day has increased and every day 30,000 children die because of preventable diseases (DfID 2006).

Africa's fragile and marginalised economies went deeper into crisis. Annual average growth rates fell from a respectable 4 percent in 1970-79 to 1.7 percent in 1980-89 and 0.4 percent in 1990-94 (Capps 2005: 45). Even the World Bank was forced to admit in 2000 that 'Average income per capita is lower than at the end of the 1960s' (World Bank 2000: 1), and per capita income in sub-Saharan Africa (excluding South Africa) in 1997

was only two thirds the level of 1970 and more than “40 percent of its 600 million people live below the internationally recognized poverty line of \$1 a day” (World Bank 2000: 10).

Neoliberalism and Taxation in Less Developed Countries

The currently dominant fiscal approach is to reduce import taxes and minimize the taxation of capital in the hope that this will increase inward foreign direct investment and trade. This is only *one* view. It is the view associated with neoliberalism and structural adjustment. It is not well supported by empirical evidence. No countries have developed economically through free trade and low taxes. All developed countries developed behind high protective tariffs and the proportion of their GDP going to tax increased as they developed.

The neoliberal influence on tax reforms is represented by the pressure being mounted on governments in peripheral capitalist countries to shift their tax base from ‘easy to collect’ taxes [tariff, seigniorage, etc.] towards ‘hard to collect’ taxes [VAT, income tax, etc.] (Aizenman and Jinjark, 2006:1)

Sindzingre (2006) asserts that for low income countries, the IMF views a tax ratio of at least 15% as an appropriate target because minimal living standards cannot be sustained at tax ratios below 10%, which obtains in many of them. A ratio close to 20% is considered better, as it provides more room for productive expenditure. An expansion of the tax base is therefore inevitable to attain the minimum required increase in revenue. Sindzingre (2006:7 -8) finds that the tax ratio (tax revenue/GDP), during the period 1999-2003, varies widely in low-income countries, from 7-10% in Bangladesh and Rwanda to 30% in Guyana. In the past decade it rose by only 0.5 points in low-income countries (to around 15%). In the 1990s, it was 6.8% in Uganda and 8.1% in Madagascar. In Nigeria tax revenue to GDP was found to be around 7% during the period 1999-2003.

The IMF is however concerned that despite the low tax ratio, there is heavy reliance on trade tax in developing countries unlike the pattern in the developed countries. The neoliberal perspective requires developing countries to follow the pattern of the developed countries. Baunsgaard and Keen (2005) found that sub-Saharan Africa countries rely heavily on trade taxes as a source of government revenue. These taxes account for an average of a quarter of government revenue. (Cited in Sindzingre, 2006). Other calculations put it at about one-third (Agbeyege et al. 2004). Ebrill et al (1999) reported that despite a declining trend, on average in 1990, trade taxes still accounted for some 5.5% of GDP. Indeed, in 1990 sub-Saharan Africa as a region derived the highest proportion of its current revenue from taxes on international trade: 35% in 1980 and 27% in 1990, compared to almost zero for European countries (1% for the United States), with taxes on income and profits in sub-Saharan Africa only accounting for 23% of the total. Bachetta and Jansen (2003) reported that in 2000, taxes on international trade represented 77% of government revenues in Guinea; 41% in Côte d’Ivoire, 36% in Madagascar in 2003. There is a tendency that the richer the country, the more the government’s revenue is based on taxes on income (including social security contributions), property and services. Thus in the mid 1990s, revenue from trade tariffs exceeded 30% of the

government's total tax revenue in more than 25 developing countries. In contrast, in high-income countries tariff revenues typically represented less than 2% of total tax revenues. (Cited in Sindzingre, 2006:13).

In spite of the reported heavy reliance on international trade taxes by developing countries, Gupta et al (2005) have also observed that there has been a clear decrease in trade taxes in sub-Saharan Africa between the early 1990s and the early 2000s: from 4.9% to 3.5% of the GDP for the import duties, and from 1% to 0.4% of the GDP for export duties. In the early 1990s tax revenues in sub-Saharan Africa represented 16.3% of GDP and 15.9% in the early 2000s. This trend is also found in Poverty Reduction Grant Facility-eligible countries, where the tax revenue decreased from 15.2% of the GDP in the early 1990s to 14.8% of the GDP in the early 2000s." (Gupta et al. 2005, Cited in Sindzingre, 2006:19).

The IMF's view is that, where a government's spending cannot be sufficiently reduced, revenue losses should be recouped from the domestic tax system, especially in strengthening domestic indirect taxes. Thus VAT is usually a key element of its stabilisation programmes (Harrison and Krellove 2005).

The implementation of VAT has however been criticized as being problematic particularly in low-income countries and especially in sub-Saharan Africa. Even the IMF has acknowledged these difficulties, which include the presence of large informal sector, costs of monitoring and collection, deliberate underpaying, fraud and corruption around refunding processes, etc. In fact, in poor countries, fiscal problems and cash shortages may lead to government being unable to provide the refunds of VAT that are due according to the regulations (Harrison and Krellove, 2005).

Aizenman and Jinjarak (2005) also point out that the VAT is not a progressive tax and may weigh on the poor depending on the rates. In that sense it may not reinforce the developmental state, as it may not contribute to reducing inequality. Thus, the currently dominant view of tax reforms also ignores the key objective for taxation of ensuring more equitable societies and ensuring sustainable and durable economic growth. Taxation should be progressive to ensure that income and wealth is transferred from the richer sections of society to the poorer ones. Capitalism results in a concentration of income and wealth both within and between countries which even the World Bank recognizes as having adverse effects (World Development Report 2006). Progressive taxation should try and reverse or at least reduce this trend. The alternative is social dislocation, theft, riots and problems associated with economic migration within and between countries and continents. (Aizenman and Jinjarak, 2005, cited in Sindzingre, 2006:14)

Contrary to the claim of the IMF that VAT and other indirect taxes in the domestic economy provide opportunities to recoup declining revenue from trade tax, no empirical study exists to substantiate this perception, particularly in the case of low income countries. A study commissioned by the IMF itself shows that some countries (the high and middle-income countries) have recovered about 45-60% from other sources the revenues they have lost from trade liberalization, but revenue recovery has been very

weak in low-income countries - only about 30% recovery of losses - which are those most dependent on trade tax revenues. Despite the usual defence by the IMF of VAT, the study finds no evidence that in low-income countries the presence of a VAT helped to recover better than in countries that have no VAT. (Baunsgaard and Keen, 2005, cited in Sindzingre, 2006:21).

History of Taxation in Nigeria

Taxation theory has argued that there exists a relationship between tax structure and the level of economic growth and development (Hinricks, 1966; Musgrave, 1969, cited in Ariyo, 1997). Explaining the relationship between tax structure and economic development, Musgrave (1969) divides the period of economic development into two - the early period when an economy is relatively underdeveloped and relies predominantly on indirect taxes and the later period when the economy is developed and becomes more dependent on direct taxes. During the early period, there is limited scope for the use of direct taxes because the majority of the populace reside in the rural areas and are engaged in subsistence agriculture.

Using Musgrave's perspective to analyze the Nigerian situation, we found that at the early period, particularly in the colonial period economic development was characterized by the dominance of agricultural taxation. In Nigeria the various marketing boards served as effective mechanisms for administering agricultural taxation in the form of surpluses generated by paying farmers less than the prices in the international market. Agricultural taxation substituted for personal income tax given the difficulty in reaching individual farmers and the inability to measure their tax liability accurately. The large percentage of self-employment to total employment also made effective personal income tax unworkable (Musgrave, 1969). The use of the ability-to-pay principle effectively limited personal income taxation to civil servants and employees of large firms, an insignificant proportion of the total working population.

During the early period of economic development, direct taxes in form of company income taxes could not be used as a significant source of Government revenue as there were few domestic industries. The same principle applied to excise tax (an indirect tax) on locally manufactured goods. Both gained relative importance as economic development occurred. Nonetheless, an important source of government revenue during the early stage of economic development was the foreign trade sector. Before the advent of oil in commercial quantity in 1971, revenue from the traditional sources such as tax on export products like cocoa, groundnut and palm kernel served as sources of revenue for financing the public sector. However, revenue from export and custom duties was not stable because of periodic fluctuations in the prices of primary products. In addition to export and import duties, a poll tax was levied on most people who were not otherwise subject to direct taxation..

The advent of the oil boom in the 1970s brought structural changes to the Government's revenue profile with indirect taxes giving way to direct taxes. Domestic industrial activity increased, as did the number of people employed in the formal sector. (Egwakhide, 1988, cited in Ariyo, 1997). However, the increasing revenue from oil was associated with a

decline in the traditional agricultural tax revenue. As Ariyo (1997) remarks, this development appears to conform with Musgrave's (1969) theory that as an economy develops, more reliance is placed on direct tax revenue.

However, Musgrave's theory does not precisely apply to the Nigerian situation. The theory could not have envisaged a situation where the sudden emergence of an oil boom provides for a prolonged period, an unprecedented source of stupendous wealth (\$400bn in about 4 decades) from one single sector, rendering almost unnecessary and/or insignificant revenue from any other sources. The proceeds of the oil boom were spent largely on massive importation of consumer goods (and wasted in corruption) thus enhancing income from import duties rather than promoting the pace and level of industrial development in the economy. Consequently, there developed an over-dependence on the oil sector as the mainstay of the economy. The rate of taxation of the oil industry increased from 18.9% in 1970 to 80.7% in 1974, rising further to 82.2% in 1989 (Ariyo, 1997). Since 1975 the rate of taxation of petroleum companies has been stable at 85%, but a guaranteed profit of \$2.30 per barrel was established in 1986. (Sindzingre, 2006). Petroleum revenues represented 82% of total Government revenues in 2000 and petroleum exports amounted to 96% of total exports of goods in the same year.

Government expenditure has increased from around 7 or 8% of GDP in the 1960s to around 20% in the late 1970s (Ariyo 1997). In the 21st century it has increased again to around 45% (AfDB/OECD 2006). VAT was introduced in 1993 (Encyclopaedia of the Nations 2006) and the rate was increased from 5% to 10% in 2006 (Federal Budget 2006) so that income from VAT is expected to be double that from companies income tax. At the same time, rates of duty have been falling from 25% to 17%. Import duties were around 5% of GDP in the 1960's. They fell to 3% by the mid 1970s. From 1980 they fell again to 1.5% of GDP by 1990 (Ariyo 1997). Other tax revenue is currently around 7 or 8% of GDP (AfDB/OECD 2006) which is similar to other sub-Saharan Africa countries.

Dependence on oil increased from less than 1% of Government revenue in the 1960's, rising dramatically to around 75% in the mid-1970s (Ariyo 1997). As Aghevli and Sassanpour (1982) and Veez-Zedeh (1989) have observed, the level of non-oil revenue and dependence on oil revenue are influenced by the level of economic activity in the non-oil sector as well as by the oil wealth effect. The extent to which the government invests on the non-oil sector may depend on its perception of the oil wealth. If oil wealth is perceived to be permanent, there may be a desire by government to transfer some of the wealth to the private non-oil sector through a reduction in non-oil tax burden (cited in Ariyo, 1997). This has been the case, particularly with corporate taxation where the declared and constantly reiterated policy is reduction in companies tax liabilities. In contrast to this policy, there has been a trend of increasing and multiplying the indirect taxes on the ordinary people.

However, reliance on primary product, as pointed out by Sindzingre (2006:13) faces the risk of commodity price volatility, which could have a dramatic impact on public revenues, as shown by oil-producing countries, which after the 1986 shock had to

suddenly and drastically cut their budgets (e.g., Gabon and Nigeria). With the shocks that accompany changes in budgetary estimates as a result of fluctuations in expected revenue from sale of oil in the international market and/or increases in the prices of imported refined petroleum products, perennial increases in the domestic prices of oil products have been the experiences in Nigeria (see Appendix 1 to this paper). These oil price increases and the related increases in the prices of other goods and services amount to an indirect tax, which reduces the disposable income of the majority of the population.

In Nigeria, there appears to be a correlation between oil revenue and the level of popular struggles. The rise in the revenue from oil in the 1970s facilitated a shift in the tax burden from the domestic population. As a result, the local population tended to be less inclined to oppose the Federal Government. Increased fortunes from oil in the period of the oil boom therefore enabled the Nigerian state to reduce the tension that may otherwise have arisen (Tobi,1989:138). The crisis phase in Nigeria's economy has been compounded by the adoption of the Structural Adjustment Programme (SAP), which has been repackaged under different names, including the current National Economic Empowerment and Development Strategy (NEEDS). This has resulted in increased tension in state-society relations, based on reduced revenue from oil and the effective imposition of indirect taxes.

3 FEATURES OF NEOLIBERAL TAX POLICIES IN NIGERIA: SUBSIDIZING CAPITAL AND TAXING LABOUR

The contention in this paper is that policies such as sale of public assets, transfer of responsibility for provision of public goods to the private sector, poverty wages, wage cuts or increases in wages which do not match the rate of inflation, late payment or non payment of salaries as and when due, reduction or removal of subsidies on publicly supplied goods and services are neoliberal policies of taxing or raising revenue to finance the state. Such neoliberal policies constitute heavy indirect taxes, which undermine disposable income especially of the poorer sections of society

In the literature, forced labour (labour tax or *corvée* as it was called in French West Africa, even where it was payable in cash (Hopkins, 1973)) is regarded one of the forms in which the colonial state financed public activities. Max Weber (1978:194-198) recognises 'purely voluntary or compulsory contributions or services' as forms of financing the state. He gives examples of obligations to personal service to include 'obligations to military service, to serve in courts and on juries, to maintain roads and bridges, to work on a dyke or in a mine, and all sorts of compulsory services for corporate purposes...' (p.197). Indeed, on the authority of Frederick Lugard (a governor of Nigeria early in the 20th century), forced labour was conceived as being equivalent to taxation: 'Direct taxation may be said to be the corollary of the abolition of forced labour' (Lugard, 1913-1918). It is therefore contended that if forced labour can be regarded by the colonialists as a tax and a form of resource mobilisation to finance the state, the policies of wage cuts, poverty wages, and the 'daily paid system', which came into being after the regime of forced labour, can be taken as forms of unrefundable 'compulsory contributions' which are extracted from citizens for the same purposes.

It is also contended that late payment or non-payment of salaries 'as and when due', which has become a prolonged and prevalent practice in Nigeria should be seen as a way of public financing which also undermines the purchasing power of workers. Given the time-value of money, delay in payment of salaries for several months is similar to a cut in wages. The interest that could be earned if deposited in the bank gives an idea of what the worker loses when his salaries are delayed. In terms of actual purchasing power, the worker loses much more than the value of bank interest. Considering the large sums of money in unpaid salaries for thousands of workers, state functionaries make fortunes from personnel budgetary allocations, which are often either invested for their private benefit or diverted for other state purposes.

On the relevance of 'subsidy' to taxation, it is generally accepted in the theory of taxation that subsidies on publicly supplied goods and services could be 'viewed as negative taxes'. (Newbery and Stern, 1987:531-532). A reduction in the rate of subsidy can be seen as an increase in the rate of tax while an increase in the rate of subsidy means a reduction in the rate of tax. Hughes (1987:533) explains that taxes imposed on goods and services used as intermediate inputs into the production of other goods or services necessarily affect the prices of those other goods and services. This is particularly so in the case of fuels, 'both because fuel taxes/subsidies are a major item in government budgets of most

developing countries and because energy prices affect the prices or profitability of a wide range of goods and services'. In other words, reduction or removal of subsidies on petroleum products is not just a tax on petroleum products; it is also an indirect tax on other goods and services.

A reflection on the meaning of fiscal policy and its uses will further justify the contention that 'subsidy' is an element of (negative) taxation. Ojo and Okunroumu (1992) summing up conceptions in the literature, define fiscal policy as the package of adjustments in government revenues and expenditures in support of economic stability and a desired rate of economic growth. Specifically, it seeks to achieve full employment, sustain general price stability and thereby increase the potential rate of economic growth. Thus, conceptually, fiscal policy is relevant in a modern state as it seeks to guide the major activities of the government to attain the above stated goals. In practice however, fiscal policy can deviate from the accepted norm and hence engender crises.

Fiscal policies could be used to redistribute income in a chosen direction. Thus, expenditures on welfare programmes such as social security, welfare services and unemployment allowance tend to enhance the real incomes of the poor classes while a progressive tax system seeks to take away some income from the highest income groups in the society. Government intervention to redistribute income may also take the form of subsidies to either induce higher output on the part of producers or to increase consumption.

Ojo and Okunroumu (1992) gave examples of subsidies on production and consumption in developing countries. Subsidies on production include reduction in the prices charged for fertiliser and seedlings to farmers, charging of differential or lower interest rate on credit to productive activities, lower tariffs on imported inputs and provision of infrastructural services in support of industrial production, etc. On consumption, subsidy elements could involve the provision of social services at uniform prices throughout the country, e.g. petroleum products, electricity and water rates, education and health services. Thus, in a situation in which subsidies are either being reduced or removed, it amounts to an indirect tax on the income of the ordinary people for the benefit of the owners of capital.

Company Taxation in Nigeria

Appendix II highlights the tendency of the tax burden on capital in Nigeria to be reduced.

Scholars have attempted to appraise earlier measures aimed at reducing the tax burden of multinational companies in Nigeria. Faruqee and Husain (1994:249 - 250) reported that the Structural Adjustment Programme reduced the corporate income tax rate based on the terms of international tax treaties that were signed. Asiodu (1977:225) enumerated the major tools, which the Nigerian governments had employed in encouraging foreign investors. They included industrial incentives, the creation of industrial estates with provision of roads, power, water and other essential amenities, etc. He recognized industrial incentives as the most important of all the tools. The incentives that were

administered owed their origins to the Industrial Development (Import Duty Relief) Act (1957) and the Industrial Development (Income Tax Relief) Act (1958). Earlier, there was also the Aid to Pioneer Industries Ordinance of 1952 (Phillips, 1977:233). Under the Income Tax Relief Act, a firm operating in an industry that had been declared a pioneer industry could obtain a pioneer certificate. The certificate entitled the firm to a tax holiday for a period extending from three to five years, depending on the amount of capital involved. Indeed, losses incurred during the period could be offset against profits earned when the tax holiday period expired.

In his assessment, Asiodu (1977) concluded that the benefits obtainable under the Import Duties Act were more significant than in earlier acts. Under the Act, a firm could be granted concessionary rates up to 100 per cent relief. The duty might be paid first and then a refund would be claimed. Alternatively, the firm might pay the concessionary rate in order to avoid tying down its working capital. Another important incentive was the Initial Capital Allowance. The law allowed firms to write off their capital investment within a few years. For example, before Decree No 65 of 1966, which marginally reduced the rates of initial allowances, it was possible for a firm to write off 73 per cent of the total cost of a commercial vehicle in the first year of operation. A firm could also claim all the depreciation allowances due after the expiration of the tax holiday. It thus had the effect of extending the benefits of the Income Tax Relief Act beyond the five-year maximum. The reduction of the rates in 1966 was in response to the criticisms that the system was over-generous and had an adverse effect on recurrent revenue (Phillips, 1977:349 - 350).

Privatization

Aborisade (2006: 42 - 43) has analyzed 52 companies which the Bureau of Public Enterprises (BPE), listed it had privatized between 1999 and May 2006. Twenty four (24) enterprises (or 46.2%) were sold to 'Core Investors'. The implication of this is that ownership of the former public monopolies is now being transferred to a few individuals (private monopolies) that can be counted on the finger tips. Seven (7) of the enterprises (or 13.5%) were privatized by a combination of 'Core Investor/Share Floatation'; seven (7) or 13.5% by liquidation; four (4) or 7.7% by 'share floatation'; three (3) or 5.7% by 'asset sale on competitive basis'; two (2) or 3.8% by concession and the rest five (5) companies or 9.6% by various other nebulous methods. The last category (i. e. various other methods) includes 'revalidation of sale'.

The BPE stated the gross proceeds it realized from the sale of the 52 enterprises in two currencies - the national currency, the Naira and also in the US Dollar, depending on terms of sale of the 52 companies. The gross proceeds in naira amounted to ₦49.70billion while gross proceeds in dollar were \$2.38billion. However, the BPE explained that majority of the buyers had actually not paid for the enterprises bought. According to the BPE, buyers of four of the public enterprises had only paid 30% of the bid price; three of the buyers had only paid 10% of the bid price; 14 had not paid anything at all; the buyer of one of the companies, which has eight (8) sub divisions had

paid only the entry fee; one of the 'investors' had paid up to 50% of the bid price and one of the transactions had been cancelled. Despite the fact that many of the companies had not been paid for, the impression was created of the existence of 'gross proceeds'. What all this shows is that what is going on in Nigeria is nothing but looting of public heritage in the name of privatization or subsidizing of capital at the expense of the ordinary people or put in other words, the use of privatization policy to redistribute wealth in favour of the rich.

Mounting and Multiple Forms of the Tax Burden on the Common People

As we have seen above, historically, the general tendency is for the level of tax levied on capital to be reduced. In contrast, the general level of, especially indirect, taxation suffered by the majority of the population has, over the same time period, increased..

While industrial incentives are given to employers, the policies of removal of subsidies, particularly from petroleum products, cuts in wages or increases in wages which do not match the rate of inflation, privatisation and commercialisation of public enterprises, among others, which seriously undermine the disposable income of the larger society are implemented. These forms of indirect tax take resources from the domestic economies of the neo-colonial world (especially the poorer members of society), which are then passed on to the imperialist world (especially the major banks) in the guise of debt servicing. Unfortunately, as Shah and Whalley (1991) observed, studies on tax incidence have largely ignored the special features of the industrially under-developed countries. The concern had been to look for the common tax incidences such as income, corporate, excise and property taxes. Peculiar indirect taxes and other fiscal measures, which equally undermine disposable income and generate tension in social relations in the industrially underdeveloped world have largely been ignored. This paper attempts to change that perception and argues that such policies are neoliberal policies and constitute forms of taxation.

Petroleum Products Price Increases

Appendix I shows the increases in prices for petroleum products in Nigeria since 1966. It was a tabulation which took account of developments up till July 2006. It has been updated for the purpose of this paper, taking on board, the large price increase announced in the last two weeks of December 2006. Between 1999 and today (the period of civilian rule since the overthrow of the military dictatorship) the price of petrol has risen by 400%. In December 2006 alone, the increase was over fifty percent.

Increases in the Electricity Tariff

Over the years, on the promise of guaranteeing regular efficient power generation and supply, the National Electricity Power Authority (now PHCN), has continued to increase twice or thrice annually its tariff by 400% or more and its service charge by around 500% (Daily Champion, Editorial Opinion, 22 November 2006: 10).

By its own account, PHCN today generates only 3500MW from its installed capacity of 6000MW. Nigeria's power generation of 150 kilowatts (kw) per person is very low compared to Cote D'Ivoire (600kw), Zimbabwe (542kw) and Ghana (300kw). This explains why Nigeria is rated as the third largest importer of generators, after Saudi Arabia and Indonesia, on the basis that many individuals and companies have resorted to generating their own electricity to make up for inadequate or erratic supplies from the PHCN.

The Power Holding Company of Nigeria (PHCN), the electricity agency, is threatening a further doubling of its electricity tariffs. This is one of the preliminary steps towards full privatization. As a result, the cost of electricity consumption in residential areas will rise from the current ₦4 per kilowatt hour to ₦8 per kilowatt-hour.

Education Commercialization

Education has been completely de-prioritized. Fees are either being imposed where there was none or they are being increased. A typical case is the experience in Lagos State University where fees were recently increased from ₦250 to ₦35,000 in 2006, an increase of 13,900%. There is also the tendency to reduce the number of students under regular programs who pay less and to increase the number of students under part time programmes, which are run in some cases through Public-Private Partnership arrangements where students pay higher fees. Again, the experience of Lagos State University (LASU) is instructive. LASU's total population of students for the 2005/2006 academic year was over 87,000. Out of this, the full time students were over 16,000 (or about 18%) while the part time students were over 71,000 (or about 82%). This ratio represents the trend and the typical practices by other government owned institutions that have to survive in an age of deliberate deprioritisation of education by government.

The AfDB/OECD 2006 African Economic Outlook, asserts on Nigeria that:

Nigeria's education system has also suffered from policy neglect in the past two decades or so. Total expenditure on education in 2004 was less than 1 per cent of gross national income – far below the continental average of 4.71 per cent. Under-funding of the education system has left the school systems, including the formerly excellent universities, in deep crisis in terms of standards and facilities, both declining.

The implication of the neglect of education is reflected in the UNICEF's 2007 Education for All Global Monitoring Report (1999 – 2004). In Nigeria, 60% of pupils enrolled in primary schools drop out before completion. There are more than 40 million children under the age of 14, but the official primary school enrolment figure for 2004 was only 24.6million whilst secondary school enrolment was only 6.3million. Out of about 870,000 applicants to university in 2005, only 150,000 (or 17%) were absorbed (cited in *The Punch*, Editorial Opinion, 29 November 2006: 16). Also, out of the 130,000 graduates that passed out of Nigerian universities and other tertiary institutions, only 10% are able to secure paid employment (Minister of Inter-governmental Affairs and Youth Development, Grace Ogwuche, cited in *The Guardian*, 14 November 2006: 41).

In spite of the above, the 102 Federal Government owned 'Unity' secondary schools are being prepared for privatization through the public-private partnership scheme. (The Nation, 4 December 2006:32). This development could threaten the jobs of 27,000 workers.

Health

Health care has also been commodified. Public hospitals are proposed for privatization thus threatening access of the poor to modern medical care. The AfDB/OECD 2006 African Economic Outlook Report on Nigeria has aptly captured the decay in the health sector:

The Nigerian Government faces the herculean task of addressing the challenges posed by decades of deterioration in health and education services. Public-health expenditure accounted for only 1.2 per cent of GDP in 2004. Per capita health expenditure (in purchasing-power parity terms) in 2004 was about \$50, compared with nearly \$700 for South Africa, \$400 for Botswana and \$110 for Côte d'Ivoire. Similarly, the number of physicians per 100 000 people in Nigeria in 1990-2004 was 27, lower than that for comparable countries such as Egypt (212), Tunisia (70) and South Africa (69). In terms of the MDG-based health indicators, the record is also relatively disappointing. Immunisation rates for one-year-olds against the measles and tuberculosis in 2004 were 35 per cent and 48 per cent, respectively, and only 35 per cent of births were attended to by skilled health workers in 1995-2004. Mortality rates (infant, under-five and maternal) have declined in recent years but are still quite high by international standards: infant mortality declined from 140 to 98 per 1 000 live births between 1970 and 2004, under-five mortality declined from 265 to 198 per 1 000 live births during the same period, and maternal mortality declined from 1 000 to 704 per 100 000 between 1990-96 and 2000-04. In spite of the progress made in recent years, a lot remains to be done to achieve the health-related MDGs. (AfDB/OECD 2006 African Economic Outlook).

Housing

The Government is implementing its policy of selling off government housing units rather than providing shelter as provided in the Constitution of the Federal Republic of Nigeria, 1999 and Employees Housing Act, CAP 107 Laws of the Federation of Nigeria, 1990. The law states that an employer having not less than 500 employees should provide furnished housing units for them. Contrary to these requirements eviction from public housing is a common experience for public sector employees.

The Linkage between Housing and Pension

Twenty months after the January 2005 sale of the nation's steel and iron ore, including the Delta Steel Company to Global Infrastructure Nigeria Ltd, the workers were still lamenting the non-payment of pensions, as at November 2006 (The Guardian, 14 November 2006:57). This was in spite of the Union-BPE-Ministry of Power and Steel Agreement that all gratuities, salary arrears and pension liabilities (to existing and retired

staff) would be paid and that the Houses in Steel Town I would be sold to staff and the cost deducted from the staff pension while the balance would be paid to staff.

The Delta Steel Company which had 4500 employees owed ₦11.2bn pension arrears while Jos rolling Mills with 450 staff owes ₦819m

The workers who had been made redundant expressed concern that they were facing the threat of homelessness as the houses that had been allocated to them seemed falling off from their possession as a result of non-payment of pension, which could have enabled them to purchase the units where they were occupying. (The Guardian, 14 November 2006:57). But the experience of the Steel workers was not peculiar. It is typical of what many workers in the public sector, including the civil service, have to endure.

Water Privatization

Water privatization is becoming the trend and will further reduce the percentage of the population that has access to pipe borne water. In a city like Ibadan (Nigeria's second city), less than 10% of the population has access to pipe borne water. State governments have begun to adopt laws to fully privatize water. The focus of the law legalizing water privatization is hike in tariff and cut in staffing levels. Already, even without supplying the service, residents in communities are being compelled to pay for services they never enjoy.

Attacks on Pension Rights

Pension rights have come under unprecedented attack, representing one of the most vicious neoliberal attacks on the rights of the working class in recent time in Nigeria. Pensions are never paid. Unpaid pension liability in the public sector alone is estimated at ₦2trillion. Apart from the fact of non-payment of pension liabilities, the Pension Reform Act 2004 has abolished the right to pension for life. Contributors to any pension scheme shall only be entitled to the amount of contributions made while in service, which will be spread over an estimated 'expected life span'. Similarly, payment of gratuity has also been abolished by the Act.

The Pension Reform Act 2004 provides for taxation of additional contribution (called 'voluntary contribution' in the Act) to pension funds, which is in excess of the statutory rates of contribution. Section 10 of the Act provides that the statutory rates of contributions 'shall form part of tax deductible expenses in the computation of tax payable by an employer or employee under the relevant income tax law [S. 10]. However, any 'voluntary contribution' made under subsection (5) of Section 9 of the Act shall be subject to tax at the point of withdrawal where the withdrawal is made before the end of 5 years from the date the voluntary contributions was made [S. 7(2)]. The taxation of 'voluntary contribution' constitute additional tax burden, which is unjustifiable.

4 TOWARDS AN ANTI-POVERTY PUBLIC FINANCE PROGRAMME

This section examines measures necessary to put in place an anti-poverty public finance programme. It discusses both the revenue and expenditure aspects of public finance in the context of Nigeria as an oil rich country.

Determinants of Revenue Aspect of Public Finance Programme

While taxation undermines disposable income, Olson (1971:13) explains the necessity for imposition of taxes by the state. He contends that no major state in modern history has been able to support itself through voluntary dues or philanthropic contributions. Taxes, which he defines as compulsory contribution, are a necessity. To him, the basic reason why taxes are said to be as certain as death is that the most elementary and most fundamental services, which a nation-state provides, are public goods. A common, collective or public good is defined as any good such that if any person X_i in a group $X_1, \dots, X_i, \dots, X_n$ consumes it, it cannot feasibly be withheld from the others in that group (Head, 1962:197 - 219). Citizens constitute membership of the nation state as an organisation. Defence, police protection, judicial services and access to social services and infrastructure constitute the public goods. The provision of such goods can only be sustained based on payment of taxes by the economically active segment of the society. However, the degree of the tax burden on individuals should be dependent on a number of factors such as the types, quantity and quality of natural resources, the general economic condition and the economic status of the citizens.

Aghevli and Sassanpour (1982) and Veez-Zedeh (1989) have observed that the existence and perception of the oil wealth by the government influence the policy of transferring some of the oil wealth to the private non-oil sector through a reduction in non-oil tax burden. What informs the multiple tax concessions on companies should also qualify a reconsideration of the level and types of taxation on the poor. For example, to increase the proportion of direct tax in public revenue, jobs must be provided through state owned enterprises, not cut. As Mbembe (1999b) puts it, the state must obligate itself before it can obligate the citizens. Therefore, to raise tax revenue, more people ought to be employed rather than sacked. Contrary to the policy of reducing the size of public sector employees, Sindzingre (2006: 14) has observed that:

Public sectors in sub-Saharan Africa were not excessive at the time of the first fiscal crisis that led to the first adjustment programmes in the early 1980s. The weight of the public sector is relatively weak in sub-Saharan Africa. Contrary to a conventional wisdom that looks at their low levels of fiscal revenue, sub-Saharan Africa states do not have over-sized civil services. The two countries said to have developmental features - Mauritius and Botswana - had higher public employment ratios than the sub-Saharan Africa average: in the mid-1990s, 5.5% and 5.8% respectively, compared to 1.5% on a sample of 20 sub-Saharan Africa countries, and 2.6% in Asia (11 countries) or 3% in Latin America and the Caribbean (9 countries). sub-Saharan Africa states show a ratio of the number of civil servants/total population that is lower than in developed countries or other developing countries; in 1996, it was 1% compared to 3% in other developing

countries. The number of civil servants in relation to the total population has sometimes even fallen since the stabilisation programmes in the 1980s.

Introduce Progressive Taxation

The predominant practice in many states of the Federation in Nigeria today is proportional taxation by which 10% of gross pay is deducted as tax. First, taxing fringe benefits erodes purchasing power. Second, the poor who pay 10% of their earnings make greater sacrifice than the well-paid executives in certain sectors of the economy. It is thus an inequitable tax policy.

While gross pay of ordinary workers, including fringe benefits, are taxed at the rate of 10%, the Income Tax Management Act (ITMA) 1961 exempts the incomes of certain persons or class of persons from being taxed (Ariwodola, 1993: 23 – 24). The list of the incomes exempted from tax includes the official emoluments of the head of state of the Federation and those of the State Governors. Yet, these are the categories of public officials who earn the highest pay. This policy is still in force till date. If there is any justification for taxing the incomes of ordinary workers, there is greater justification for taxing the official emoluments of the President and State Governors.

Tax Capital and the Rich

The taxation of large companies is clearly more efficient than trying to tax the mass of poor people existing on \$1 a day or less. Taxing rich companies is more equitable and efficient than general consumption taxes like VAT. Many people, including increasingly the World Bank (2006), recognize the problems which increasing inequality across the world is causing.

While companies are being given tax relief for facilities like water, road, etc that are not provided by the state, ordinary people are being made to pay for services they do not enjoy. This is in spite of the extreme poverty level, which AfDB/OECD 2006 African Economic Outlook Report made on Nigeria

A household survey conducted by the government in 2003-04 showed that 54.4 per cent of the population is poor, with a higher poverty rate in rural areas of 63.3 per cent. Income inequality, measured by the Gini coefficients for urban and rural areas in Nigeria at 0.554 and 0.529, respectively, is very high (AfDB/OECD 2006: 427).

Taxation of consumption hinders the development of domestic markets. Pressure to reduce taxation rates on companies and to introduce the so called, 'flat tax' should be resisted. Taxation income and increased equity from progressive taxation are essential for development. Establishing large company units in tax bodies is a key reform for effective taxation.

Tax competition

Evidence suggests that low rates of corporate taxation, tax breaks etc are much less important in attracting investment than is supposed. The presence of skilled workers,

efficient transport and communications are more important. The Economic Policy Institute (2004) has found that

there is little evidence that state and local government tax cuts – when paid for by reducing public services – stimulate economic activity or create jobs. There is evidence, however, that increases in taxes, when used to expand the quantity and quality of public services, can promote economic development and employment growth

In the context of Nigeria, the work of Ekpo (2005) has also confirmed authoritatively that:

There have been bold efforts by the Federal Government in providing the enabling environment for FDI. ... Several incentives for FDI include tax and duty concessions... Firms that locate in the export processing zones in Nigeria have additional benefits such as no taxation, easy repatriation of profits... Despite the incentive packages, FDI has not played a significant role in the Nigerian economy

The Expenditure Side of Public Finance Programme

The expenditure side of public finance programme can only be strengthened if socio-economic rights are recognized as fundamental rights. Therefore, a discussion of the expenditure side has to begin with the challenge to legally and preferably constitutionally recognize socio-economic rights as fundamental rights.

The Challenge of Legislatively/Constitutionally Recognizing Socio-Economic Rights as Fundamental Rights in the Nigerian Context

A key necessary condition that could facilitate the development of public finance to counter neoliberalism is constitutional recognition of socio-economic rights as fundamental rights. It is recognized that rights codified in constitutions and other legal instruments cannot on their own be enjoyed without a conscious effort to fight for their observance. However, codifying rights is a necessary first step, which strengthens the struggles of the working class in terms of stretching the capitalist system to its limits.

A study of the existing 1999 Constitution of the Federal Republic of Nigeria shows that the constitutional scope of fundamental human rights is restrictive. . While the United Nations Universal Declaration of Human Rights and the African Charter on Human and Peoples Rights recognize civil and political rights as well as economic and social rights as fundamental rights, the 1999 Constitution of Nigeria recognizes only the civil and political rights as fundamental rights. While Fundamental Rights are presented in Chapter IV of the Constitution, economic and social rights are contained in Chapter II as ‘fundamental objectives and directive principles of state policy’ – in other words, as goals which the state should only aim at providing at an undefined future time. A fundamental difference between the constitutionally recognized fundamental rights and the fundamental objectives and directive principles of state policy is that while the individual can go to court to enforce the prescribed fundamental rights when violated, the socio-economic rights are not *justiceable*. In other words, they cannot be enforced through the instrumentality of the law court.

The constitutionally recognized fundamental rights provided for in the 1999 Constitution include Right to life (S.33); Right to dignity of human person (S. 34); Right to personal liberty (S. 35); Right to fair hearing (S. 36); Right to private and family life (S. 37); Right to freedom of thought, conscience and religion (S. 38); Right to freedom of expression and the press (S.39); Right to peaceful assembly and association (S. 40); Right to freedom of movement (S. 41); Right to freedom from discrimination (S. 42); Right to acquire and own immovable property anywhere in Nigeria (S. 43); etc.

On the other hand, the economic and social rights which are regarded as ‘fundamental objectives and directive principles of state policy’, specified in Chapter II of the same Constitution include:

- securing of the maximum welfare, freedom and happiness of every citizen on the basis of social justice and equality of status and opportunity [S. 16(1)(b)]
- suitable and adequate shelter, suitable and adequate food, reasonable national minimum living wage, old age care and pensions, and unemployment, sick benefits and welfare of the disabled to be provided all citizens [S.16(2)(d)]
- opportunity for securing adequate means of livelihood as well as adequate opportunity to secure suitable employment [S.17(3)(a)]
- just and humane conditions of work and adequate facility for leisure and for social, religious and cultural life [S.17(3)(b)]
- safeguarding of the health, safety and welfare of all persons at work [S.17(3)(c)]
- adequate medical and health facilities for all persons [S.17(3)(d)]
- equal pay for work of equal work without discrimination on account of sex, or on any ground whatsoever [S.17(3)(e)]
- protection of children, young persons and the aged against any exploitation and against moral and material neglect [S.17(3)(f)]
- provision of public assistance in conditions of need and in deserving cases [S.17(3)(g)]
- promotion and encouragement of family life [S.17(3)(h)]
- provision of equal and adequate educational opportunities at all levels [S.18(1)]
- government’s duty to strive to eradicate illiteracy [S.18(3)]
- provision, as when practicable, of free, compulsory and universal primary education [S.18(3)(a)]
- provision, as when practicable, of free secondary education [S.18(3)(b)]
- provision, as when practicable, of free university education [S.18(3)(c)]
- provision, as when practicable, of free adult literacy education [S.18(3)(d)]
- government’s duty to protect and improve the environment, safeguard water, air and land, forest and wild life of Nigeria [S.20]
- government’s duty to promote a just world economic order [S. 19(e)]

The significance of ensuring the transference of the socio-economic rights from Chapter II of the Constitution into Chapter IV and be treated as fundamental rights can be appreciated by the judicial relief, which the detained Gani Fawehinmi enjoyed in the face of the abrogation of fundamental rights provisions contained in the constitution, under military dictatorship. When the court could not base an order for the release of Gani

Fawehinmi on the nation's constitution, it accepted the submission of Gani's counsel, which was also hinged on the provisions of international law, in terms of the prescribed rights in the African Charter. Thus, the freedom which could not be judicially guaranteed under domestic law was judicially obtained under international law.

The relevance and potency of international law in defense of human rights have been graphically shown by Yakubu (2006: 90 – 94) relying on the case of General Sanni Abacha & ors v. Chief Gani Fawehinmi. In the said case, Chief Gani Fawehinmi was arrested and detained by operatives of the secret security agency, the State Security Services (SSS). He sued to regain his freedom under the Fundamental Rights (Enforcement Procedure) Rules, 1979 as guaranteed under some provisions of the 1979 Constitution of the Federal Republic of Nigeria and the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, CAP 10 of the Laws of the Federation of Nigeria, 1990, otherwise called the African Charter. The Military Government filed a notice of preliminary objection contending that the court lacked the constitutional jurisdiction to entertain any suit relating to the provisions of Chapter IV of the 1979 Constitution on the ground that Chapter IV of the Constitution had been suspended. Counsel to Chief Fawehinmi however argued that since CAP 10 incorporating the Charter into the municipal laws was neither suspended nor repealed, it applied.

The Supreme Court, per Ogundare JSC held inter alia:

Before its Enactment into law by the National Assembly, an international treaty has no such force of law as to make its provisions justifiable in our courts... Where however, the treaty is enacted into law by the National Assembly, as it was the case with the African Charter which is incorporated into our municipal (i.e. domestic) law by the African Charter on human and Peoples' Rights (Ratification and Enforcement) Act CAP 10 laws of the Federation of Nigeria 1990, (hereinafter is referred to simply as CAP 10), it becomes binding and our courts must give effect to it like all other laws falling within the judicial powers of the courts. By CAP 10, the African Charter is now part of the laws of Nigeria and like all laws the courts must uphold it (Cited in Yakubu, 2006:93-94)

Making categorical pronouncement on the superiority of a statute with international flavour, Ogundare JSC held further:

No doubt, CAP 10 is a statute with international flavour. Being so, therefore, I would think that if there is a conflict between it and another statute, its provisions will prevail over those of that other statute for the reason that it is presumed that the legislature does not intend to breach an international obligation. To this extent I agree with their Lordships of the Court below that the Charter possesses 'a greater vigour and strength' than any other domestic statute. But that is not to say that the Charter is superior to the Constitution ... nor can its international flavour prevent the National Assembly, or the Federal Military Government before it, from removing it from our body of municipal laws by repealing CAP 10. (Cited in Yakubu, 2006:94)

However, it should be reiterated and stressed that the provisions of the African Charter could only be used in the cited circumstances only because the African Charter had been incorporated into domestic laws as the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, CAP 10 of the Laws of the Federation of Nigeria, 1990. In order to be accepted by the international community, the military government could not repeal nor suspend it. Hence, the holdings of the Supreme Court above were hinged on the constitutional stipulation, which provides that:

12 (1) No treaty between the Federation and any other country shall have the force of law except to the extent to which any such treaty has been enacted into law by the National Assembly.

(2) The National Assembly may make laws for the Federation or any part thereof with respect to matters not included in the Exclusive Legislative List for the purpose of implementing a treaty.

(3) A bill for an Act of the National Assembly passed pursuant to the provisions of subsection (2) of this section shall not be enacted unless it is ratified by a majority of all the Houses in the federation.(Section 12 of the 1999 Constitution of Nigeria).

The need for recognizing socio-economic rights as fundamental rights in order to enhance the development of a public finance to counter neoliberalism can also be seen by the holdings of the court in a typical case involving determination of employment issues in *Grace Jack V. University of Agriculture, Makurdi* [(2004) 5 NWLR Pt. 865]. The Appellant, Grace Jack, was employed by the Respondent. She was initially suspended and later sacked. The Appellant was aggrieved and commenced an action at the High Court of Benue State under the Fundamental Rights (Enforcement Procedure) Rules claiming the following reliefs, among others: the quashing of the letters of suspension and dismissal, an order reinstating her, payment of accrued salaries and allowances and general damages for breach of contract of employment. The trial court granted all the stated reliefs above. The Respondent appealed to the Court of Appeal against the decision of the High Court of Benue State. The Court of Appeal allowed the appeal on the ground that the High Court lacked jurisdiction by virtue of S. 230(1)(s) of the 1979 Constitution (which is S. 251(1)(r) of the 1999 Constitution).

S. 230(1)(s) of the 1979 Constitution (which is S. 251(1)(r) of the 1999 Constitution) gives exclusive jurisdiction to the Federal High Court in matters concerning the executive or administrative action or decision by the Federal Government or any of its agencies. The act of sacking an employee by the University of Agriculture, Makurdi, being a Federal Government owned institution should have therefore been instituted at the Federal High Court rather than the High Court of Benue State. Unsatisfied with the decision of the Court of Appeal, the Appellant appealed to the Supreme Court.

The Supreme Court, in a unanimous decision allowed the appeal but struck out the appellant's suit on the ground of having been commenced by wrong procedure – it commenced by the Fundamental Rights (Enforcement Procedure) Rules instead of by

Writ of Summons since the subject matter (determination of employment) is a non-fundamental rights issue.

In the determination of the appeal, the Supreme Court held, among others that 'an action for wrongful dismissal from employment or a breach of contract cannot be brought under the fundamental rights procedure rules.

Uzo (2005: 3-4) however provides Indian judicial cases which interpret right to life to include right to livelihood. In *X V. Y Corporation & others* [(2002) 2 CHR (Cases on Human Rights) at 238-239], the Court held, per Tipnis, J. that:

'It is already seen that in DTC's case (supra), this court had held that right to life to a workman would include right to continue in permanent employment which is not a bounty of the employer nor can its survival be at the volition and mercy of the employer. Income is the foundation to enjoy many Fundamental Rights and when work is the source of income, the right to work would become as such a fundamental right. Fundamental Rights can ill afford to be consigned to the limbo of undefined premises and uncertain application. In *Banhu Mukti Morcha V. Union of India* (1984) 3 SCC 161, this court had held that the right to life with human dignity enshrined in Art 21 derives its life breath from the Directive Principles of State policy and that opportunities and facilities should be provided to the people. In *Tellis V. Bombay Municipal Corporation* (1987) LRC (Const.) 351, this court had held that the right to livelihood is an important facet of the right to life. Deprivation of the means of livelihood would denude the life itself. In *CESC V. S.C. Bose* (1992) 1 SC 441, it was held that the right to social and economic justice is a fundamental right. Right to health of a worker is a fundamental right – the right to live with human dignity at least with minimum sustenance and shelter and all those rights and aspects of life which would go to make a man's life; enjoyment of life and its attendant social, cultural and intellectual without which life cannot be meaningful, would embrace the protection and preservation of life guaranteed by Art 21. In *Life Insurance Corporation*, a bench of two judges had held that right to economic equality is a fundamental right. In *Dalmia Cement Bharat Ltd*, the right to economic justice was held to be a fundamental right ... etc' (Cited in Uzo, 2005:4).

It is therefore recommended that the position in the above Indian cases be popularized and made a universal standard, right to work is right to life and socio economic rights should be treated as fundamental rights.

Action Programme

Arising from the above arguments, the basic needs listed below should be recognized as fundamental rights. Advocacy built around them could help to ensure real economic development and a major reduction in the all pervasive poverty currently found in many less developed countries including Nigeria.

- Free education, books, breakfast and lunch for children in primary and secondary schools
- Free education at all levels, including subsidized meals and hostel accommodation in tertiary institutions

- Provision of student grants for post-secondary education
- Free health, including medicines
- Adequate nutritious food for all
- Subsidies, in conditions of need, i.e. where necessary, for basic food items and transport
- Stabilisation of basic food prices relative to minimum wages
- Free anti-retroviral (ARV) medicines to fight HIV/AIDS
- Free water (at least 50 litres per person per day)
- Free access to safe water, at least within 100 metres of the home
- Free electricity (a kilowatt hour per person per day)
- Free electricity up to a kilowatt hour per person per day
- Subsidized public housing
- Opposition to sale of government housing units and evictions
- A basic income grant - minimum wage
- National Minimum Living wage indexed to the cost of living, particularly as may be determined by cost of fuel and/or currency devaluation
- Regular payment of pension for life at the rate of the last earned salary plus adjustments for inflation from time to time
- Continued payment of gratuity for retiring workers in both the public and private sectors of the economy
- Provision of ox ploughs or tractors on interest-free loans to groups of farmers
- Use of alternative non-GM crops which are drought resistant and not dependent on fertilizers
- Provision of adequate infrastructure (eg storage facilities, roads, trains) to take crops to market,
- Re-introduction of agricultural marketing boards (providing interest free credit to farmers and stable prices for their produce)
- The right of all workers to join and organise effectively in trade unions
- cancellation of all foreign debts owed by LDCs

Improved Capacity of State to Manage the Economy:

- An end to privatisation and commercialisation of parastatals and other government bodies, no more outsourcing or public private partnerships
- An end to retrenchments in all government departments and parastatals
- Nationalisation without compensation of all major companies that have been privatised; confiscation of all wealth acquired through corruption by public officers
- A ban on all public officials patronizing private education and health services; all public officials, their families and relatives to use public utilities

5 CONCLUSIONS

Despite the exploitation of the oil wealth of Nigeria most of the people remain desperately poor with 70% trying to survive on less than \$1 a day (The Punch, Editorial Opinion, 29 November 2006: 16). In addition, despite the rhetoric of the Millennium Development Goals and the claimed importance of poverty reduction, this oil wealth has been used to subsidise the wealthy. There have been reduced rates of taxation on capital, whilst the majority of the population have seen their poverty deepened further by the imposition of what are effectively indirect taxes, with the reduction of services which they used to receive from the Government or increased charges for such services.

As David Harvey states (2005: 16):

“neoliberalization was from the very beginning a project to achieve the restoration of class power. After the implementation of neoliberal policies in the late 1970s, the share of national income of the top 1 per cent of income earners in the US soared, to reach 15 per cent (very close to its pre-Second World War share) by the end of the century. The top 0.1 per cent of income earners in the US increased their share of the national income from 2 per cent in 1978 to over 6 per cent by 1999, while the ratio of the median compensation of workers to the salaries of CEOs [chief executive officers] increased from just over 30 to 1 in 1970 to nearly 500 to 1 by 2000”.

This pattern has been replicated in Nigeria where tax revenue was only around 7% of GDP during the period 1999-2003 compared with a minimum figure of 15% recommended by the IMF for developing countries. In addition, as this paper has documented, there have been significant reductions in rates of taxation, at least for companies and the wealthy, in recent years.

Thus the Nigerian oil wealth is not being used to invest in either the infrastructure of the country or the provision of social services. The gross fixed capital formation as a percentage of GDP is only 22.4% in Nigeria compared to a figure of 18.9% for Sub-Saharan Africa as a whole (World Bank 2006b). Public services have been declining and are inferior to many other African countries. Thus, for example, per capita health expenditure in Nigeria in 2004 was only about \$50 compared to \$110 for Cote d'Ivoire and \$700 for South Africa (AfDB/OECD 2006). As a result, life expectancy in Nigeria is less than the average for Sub-Saharan Africa (World Bank 2006b). Similarly with education, Nigeria spent less than 1% of GDP on public education compared to a continental average of nearly 5% (AfDB/OECD 2006).

In addition, there has been a move from taxation being based on import taxes, which are broadly a tax on luxury items for the rich, to VAT which is suffered by a far wider section of the community. Thus import duties amounted to around 5% of the GDP in the 1960s, but had declined to around 1.5% of GDP by 1990 (Ariyo 1997). In contrast the rate of VAT was increased from 5% to 10% in 2006 and was expected to raise twice the amount of Government income as was expected from company income tax (Federal Budget 2006).

These developments have occurred during a period when the Nigerian Government and the international community have been nominally convinced of the need for poverty reduction and the achievement of the Millennium Development Goals, one of which is the halving of the number of people living in absolute poverty by 2015. The wealthy are unlikely to really give up their privileges without a struggle. For this reason this paper has developed an action programme around which collective action by trade unions and other organisations of the poorer sections of society can be organised. A key part of this programme will be the implementation of a progressive taxation system in Nigeria which will both fund a comprehensive programme of social services, but, just as importantly, will itself result in a significant redistribution of wealth and income from the richer to the poorer members of society.

Appendix I: PETROLEUM PRODUCTS PRICING/LITRE, 1966 – 2006

YEAR	PRODUCT	PRICE (AVERAGE)	% CHANGE	REGIME
1966 –Sept. 1978	P.M.S.	About 8kobo	-	Generals Aguiyi Ironsi (16 Jan 1966 - 29 July 1966); Yakubu Gowon (1 st August 1966-29 July 1975); Murtala Mohammed (29 July 1975 -13 February 1976)
Oct 1, 1978	P.M.S.	About 15kobo	87.5(Between 1966 and 1978)	Gen. Olusegun Obasanjo (14 Feb. 1976 – 1 st Oct. 1979)
April 20, 1982	P.M.S.	20kobo	33.3(Between 1978 and 1982)	Alhaji Sheu Shagari (1 Oct. – 31 December 1983)
1986	P.M.S.	About 40kobo	400(Between 1966 and 1986)	Gen, Ibrahim Babangida (27 August 1985 – 25 August 1993)
April 10, 1988	P.M.S.	42kobo	5(Between 1986 and 1988)	Gen, Ibrahim Babangida
1989	P.M.S.	60kobo	50(Between 1986 and 1989)	Gen, Ibrahim Babangida
March 6, 1991	P.M.S.	70kobo	75 (Between 1986 and 1991)	Gen, Ibrahim Babangida
1993	P.M.S.	₦4.125	931.25(Between 1986 and 1993)	Chief Ernest Shonekan (26Aug. – 17 Nov. 17 1993); Gen Sani Abacha (17 Nov. 1993 – 8 June 1998)
1994	P.M.S.	₦13.00	215(Between 1993 and 1994)	Gen Sani Abacha
1998 Dec	P.M.S.	₦25.00	92.3(Between 1994 and 1998)	Gen. Abdulsalami Abubakar (8 June 1998 – 29 May 1999)
1999 May	P. M. S (Petrol). A. G. O.(Diesel) D. P. K.(Kerosene)	₦20.00 ₦19.00 ₦17.00	-20	Gen. Abdulsalami Abubakar
2000	P. M. S. A. G. O. D. P. K.	₦24.00 ₦19.70 ₦17.00	20% 3.68	General/Chief Olusegun Obasanjo(29 May 1999 till date)

YEAR	PRODUCT	PRICE (AVERAGE)	% CHANGE	REGIME
2001	P. M. S. A. G. O. D. P. K.	₦24.00 ₦23.50 ₦20.50	20 23.68 20.59	Chief Olusegun Obasanjo
2002	P. M. S. A. G. O. D. P. K.	₦26.00 ₦26.00 ₦24.00	30 36.82 41.18	Chief Olusegun Obasanjo
2003	P. M. S. A. G. O. D. P. K.	₦35.38 ₦33.88 ₦33.50	76.90 78.32 97.06	Chief Olusegun Obasanjo
2004	P. M. S. A. G. O. D. P. K.	₦42.79 ₦53.25 ₦50.79	113.95 180.30 198.76	Chief Olusegun Obasanjo
2005	P. M. S. A. G. O. D. P. K.	₦50.61 ₦63.57 ₦60.71	153.05 234.58 257.12	Chief Olusegun Obasanjo
2006(Up till December)	P.M.S A.G.O. D.P.K.	₦65.00(since August 2005) ₦90.00(current) ₦75.00(current)	225.00 373.68 341.18	Chief Olusegun Obasanjo
23-12-06	P.M.S.	₦100.00	53.85% increase in one month and 400% price increase between 1999 and now)	Chief Olusegun Obasanjo

(Source: Aborisade, F. 'Labour and Socio-economic Rights Development and Nigeria's Commercialisation and Privatization Policy: A Descriptive Appraisal', Research Report Submitted to the Centre for Civil Society, School of Development Studies, University of KwaZulu-Natal, Durban, South Africa
(<http://www.ukzn.ac.za/ccs/files/Aborisade%202006%20Labour.pdf>).

Appendix II REDUCTION IN TAXATION OF CAPITAL

Company Income Tax Rates

Company Income Tax Rates in Nigeria from 1961 to the present, though considered generally high compared to the developed countries' rates, show a tendency to decline. It has declined from 40% in 1961 to 30% currently. [Ariwodola, 1988; Companies Income Tax Act, CAP. C21 Laws of the Federation of Nigeria, 2004, Section 40(1)]. Indeed, between 1975 and 1979, it was nil for the first ₦6,000 and 45% for income in excess of ₦6,000 for each of the years.

Pioneer Industries Status

One of the investment incentives available to industries in Nigeria is that under the Industrial Development (Income Tax Relief) Act 1971, which grants tax holidays to companies in the industries that meet the conditions of being designated pioneer industries. The tax holiday is usually for an initial period of 3 years but can be extended for additional 2 years. (Ariwodola, 1988:147)

Capital Allowances

An expenditure incurred in connection with plant, machinery and fixtures, buildings, structures or works, of a permanent nature, mines, oil wells or other sources of mineral deposits of a wasting nature, plantations qualifies for capital allowance. This includes:

Reconstruction investment Allowance (S.32 of the Companies Income Tax Act, CAP. C21 Laws of the Federation of Nigeria, 2004). A company that incurs an expenditure on plant and equipment, is entitled to an initial investment allowance [S.32(1)]. The rate of such allowance is 10% of the actual expenditure incurred [S. 32(2)]

Rural Investment Allowance (Section 34, Companies Income Tax Act, CAP. C21 Laws of the Federation of Nigeria, 2004).

A company that incurs capital expenditure on the provisions of facilities such as electricity, water, tarred road or telephone for the purpose of a trade or business which is located at least 20 kilometers away from such facilities provided by the government, is entitled to an allowance called Rural Investment Allowance [S.34(1)]. The rate of the Rural Investment Allowance is determined by the degree of lack of infrastructural facilities as stipulated below:

- (a) No facilities at all, 100%
- (b) No electricity, 50%
- (c) No water, 30%
- (d) No tarred road, 15%
- (e) No telephone, 5%

[Section 34(2) Companies Income Tax Act, CAP. C21 Laws of the Federation of Nigeria, 2004]

Export Processing Zone Allowance

A company which incurs expenditure building and plant equipment in an export processing zone is qualified to be granted 100% capital allowance in any year of assessment [Section 35(1) Companies Income Tax Act, CAP. C21 Laws of the Federation of Nigeria, 2004].

Exemption from Tax

The profit or gains of a 100% export oriented undertaking established within and outside an export free zone shall be exempt from tax for the first three consecutive assessment years under the following conditions:

- (i) the undertaking is 100% export oriented
 - (ii) the undertaking is not formed by splitting or breaking up or reconstructing a business already in existence
 - (iii) it manufactures, produces and exports articles during the relevant year and the export proceeds form 75% of its turnover
 - (iv) the undertaking is not formed by transfer of machinery or plants previously used for any purpose or where machinery or plant previously used for any purpose is transferred does not exceed 25% of the total value of the machinery or the undertaking
 - (v) the undertaking repatriates at least 75% of the export earnings to Nigeria and places it in a domiciliary account in any registered and licensed bank in Nigeria
- [S.35(3) Companies Income Tax Act, CAP. C21 Laws of the Federation of Nigeria, 2004]

Companies Mining Solid Minerals

A new company involved in the mining of solid minerals is exempted from tax for the first three years of its operation [S.36 Companies Income Tax Act, CAP. C21 Laws of the Federation of Nigeria, 2004].

Tourism Industry: Income in Convertible Currencies Exempted from Taxation

25% of incomes in convertible currencies derived from tourism by a hotel are exempted from tax, provided that such income is put in a reserved fund to be utilized within five years for the building expansion of new hotels, conference centres and new facilities for the purpose of tourism development [Section 37 Companies Income Tax Act, CAP. C21 Laws of the Federation of Nigeria, 2004].

Local plants and Fabrication of Spare Parts

A company which engages wholly in the fabrication of spare parts, tools and equipment for local consumption and export is allowed 25% of investment tax credit [S. 38(1) Companies Income Tax Act, CAP. C21 Laws of the Federation of Nigeria, 2004] while a company which purchases a locally manufactured plant, machinery or equipment for use in its business is allowed 15% investment tax credit on such fixed asset [S.38(2) Companies Income Tax Act, CAP. C21 Laws of the Federation of Nigeria, 2004] .

Incentives To The Gas Industry

A company engaged in gas utilization is entitled to the incentives stated below. Gas utilization refers to downstream operations involving the marketing and distribution of

natural gas for commercial purposes and includes power plant, liquefied natural gas, gas to liquid plant, fertilizer plant, gas transmission and distribution pipelines. The incentives are:

- (a) An initial tax free period of 3 years, which may be renewed for an additional period of 2 years.
 - (b) As an alternative to the initial tax free period, an additional investment allowance of 35%, provided that such a company shall not be entitled to the incentive in (c) (i) (ii) below
 - (c) Accelerated capital allowance after the tax free period as follows, i.e.
 - (i) an annual allowance of 90% with 10% retention, for investment in plant and machinery
 - (ii) an additional investment allowance of 15%
 - (d) Tax free dividends during the tax free period, where,
 - (i) the investment for the business was in foreign currency, or
 - (ii) the introduction of imported plant and machinery during the period was not less than 30% of the equity share capital of the company
 - (e) Interest payable on any loan obtained with the prior approval of the Minister for a gas project shall be tax deductible
- [S. 39(1) Companies Income Tax Act, CAP. C21 Laws of the Federation of Nigeria, 2004]

Replacement of Obsolete Plant And Machinery.

Any company in the gas industry that incurs an expenditure for the replacement of an obsolete plant and machinery, is entitled to 15% investment tax credit.

[Section 41 Companies Income Tax Act, CAP. C21 Laws of the Federation of Nigeria, 2004]

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