

Economic Diversification in the Context of a Constitutional Right to Happiness: Implications for Law and Policy Initiatives

A. E. Akintayo

*Department of Public Law
University of Lagos, Akoka*

Abstract

Nigeria's oil resources have been more of a curse than a blessing. This has given rise to the need and current efforts to diversify the Nigerian economic base from over reliance on oil for a more stable and sustainable economic development. Diversification of the Nigerian economy is however a process that cannot but take place in contexts and one of the requisite contexts is the constitutional and the legal one. Nigeria's constitutional and legal frameworks and economic initiatives and policies, however, present a contrast and a contradiction. While the economic policies and initiatives are neo-liberal in form and character, they are underpinned by a constitution with a social democratic orientation. One of the core norms of Nigeria's social democratic oriented constitution is the constitutional right to happiness. This article highlights the contradiction inherent in Nigeria's social democratic oriented constitutional framework vis-a-vis the economic policies and initiatives. It also interrogates the implications of a right to happiness as a core value of Nigeria's social democratic oriented constitution on the economic diversification laws and policies of Nigeria. The clear articulation of the constitutional context(s) within which the diversification of the Nigerian economy is to take place has become important at this time because of the apparent disconnect between the vision of the Nigerian Constitution and the aims and objectives of current economic reforms. It is hoped that a clear exposition of the requisite constitutional context(s) will bring about the much needed focus and direction in the formulation and execution of people oriented and people focussed policies and laws for sustainable economic reforms.

Keywords: *Economic Diversification, Right to happiness, Sustainable development*

1. Introduction

The Nigerian economy is currently going through a crunch. Perennial low prices of oil occasioned by the volatility in the world's oil markets, militancy and vandalism of key oil infrastructures in the Niger-Delta where Nigeria gets most of its oil have both worked together to drastically reduce Nigeria's oil production and earnings to about half. This state of affairs has plunged the economy of

Nigeria into a recession as a result of the country's over-dependence on oil. The current efforts to diversify the Nigerian economic base for a more stable and sustainable economic development is therefore a good step in the right direction.

Diversification of the economy is however a process that cannot take place in a vacuum. It is a process that cannot but take place in contexts and one of the requisite contexts is the constitutional and the legal one. Nigeria's constitutional and legal frameworks and economic initiatives and policies however present a contrast and a contradiction in this regard. While Nigeria's economic policies and initiatives are neo-liberal in form and character, they are in turn underpinned by a constitution with a social democratic orientation. One of the core norms of Nigeria's social democratic oriented constitution is the constitutional right to happiness. The main aim of this paper is to highlight the contradiction inherent in Nigeria's social democratic oriented constitutional framework vis-à-vis Nigeria's economic policies and initiatives. This is done through a tentative interrogation of the content and contours of the right to happiness in the Constitution of the Federal Republic of Nigeria, 1999 as amended (the Nigerian Constitution) and the implication of this for economic diversification laws and policies.

The clear articulation of the constitutional context(s) within which the diversification of the Nigerian economy is to take place has become important at this time for at least three reasons. First is the observable disconnect between the vision of the Nigerian Constitution and the aims and objectives of current economic reforms. Second is the apparent illegality and arbitrariness which currently trails Nigeria's economic reforms as available evidence seems to suggest (*The Guardian*, July 15, 2016; Channels Television, July 15, 2016; Channels Television, July 25, 2016). Third is the poor performance of the Nigerian economy in recent times which, after all, may not be entirely due to low prices of oil and vandalism in the Niger-Delta alone but due also to bad governance and anti-poor policy initiatives which in themselves are against the spirit and tenor of the Nigerian Constitution as I seek to show in this article. The current economic crisis and recession in the country has, for instance, been blamed on lack of good governance, chronic inequality, extreme poverty and hunger of the larger majority of the Nigerian populace. The solution that has therefore been proffered in order to transform the Nigerian economy from its current critical state is the inclusion of and investment in the Nigerian people in order to reduce inequality and poverty (Channels Television, September 05, 2016).

In the light of the above, it has become essential to resolve the contradictions between the economic vision and thrust of the Nigerian Constitution and the country's neo-liberal laws and policies. This is in order to sharpen policy focus in the diversification process. It has also become necessary at this time to craft better economic approach(es) different from the past which will promote the much needed people oriented and people-centred economic laws and policies. That is, economic laws and policies with the potential to promote good governance, reduce inequality, hunger and conflict for a more sustainable economic development and peace in the country. This is the end to which this paper is geared.

In order to achieve the above-mentioned objectives, this paper is divided into five sections. Section one is this introduction. Section two traces the development and sets out the broad parameters of happiness in western moral and political philosophy. This is justified on the ground that the constitutional and governance norms and values underpinning Nigeria's constitutional and political arrangements are products of western moral and political theories. Section three is a tentative articulation of the sources and contours of the right to happiness in Nigeria and its implications for the economic diversification process. Section four examines the potential advantages of the right to happiness approach in addressing Nigeria's economic development deficits. Section five concludes the essay.

2. Happiness in Moral and Political Philosophy

Happiness as a moral and political value is closely tied to the origin and development of the utilitarian school of thought in western philosophy. Happiness in western thought started off as a moral/ethical value before transforming into a political philosophy in the heydays of Jeremy Bentham and James Mill among other classical utilitarian theorists. The exposition of happiness as an ethical value in western moral thought is traceable to the works of early utilitarian thinkers like John Gay and Richard Cumberland who are sometimes referred to as 'theological' utilitarians (Stanford Encyclopaedia of Philosophy, 2014).

Gay, for instance, was mainly concerned with finding the meaning of virtue, that is, the criteria to determine virtuous actions and the motivation for virtuous actions by men (Gay, 1731, p xxiv – xlv). According to Gay, virtue is an obligatory rule of life and action geared towards the happiness of others which ought to be followed by all rational beings; and everybody conforming to this obligatory rule of life is or ought to be esteemed and approved (Gay, 1731, p.

xxix). In Gay's view, virtue is always in relation to other persons. Thus, a man acting in his own interest is a prudent but not a virtuous man, also a man acting in furtherance of God's interest is a religious and not a virtuous man (Gay, 1731, p. xxix). According to Gay, a man is happy only when he conforms to virtue, that is, makes others happy. The determining criteria of virtue or happiness however rest in doing the will of God. This is because happiness is the very nature of God and He could therefore have no other design in creating mankind than the happiness of mankind which He wills. Virtuous acts are therefore only those acts that tend towards the good of mankind because these are the acts that are capable of ensuring the happiness of mankind which is the will of God. Only acts geared toward the good and happiness of mankind are to be done while those which tend to pain and misery are to be avoided because in this lies the happiness of man as an agent (Gay, 1731, p xxxi – xxxii). This grounding of the happiness of mankind in divine source and obligation is a view also shared by Cumberland (1727), among others.

The basic idea of utilitarian thought is that only pleasure is good, pain is bad; and it is the natural inclination of man to seek pleasure and happiness as opposed to pain and unhappiness. The only right action and course of conduct are therefore those which result in and promote the greatest happiness of the greatest number of people (Mukhejee Ramaswamy, 2011, p 217 – 218). While this basic idea predated Bentham, it is however in Bentham's work (1789) that the theory evolved into a political philosophy which is to underpin and control governmental actions and inaction (Mukhejee and Ramaswamy, 2011, p.218).

According to Bentham:

Nature has placed mankind under the governance of two sovereign masters, pain and pleasure. They alone point out what we ought to do and determine what we shall do; the standard of right and wrong, and the chain of causes and effects, are both fastened to their throne. They govern us in all we do, all we say, all we think....(Bentham, 1789, p. 6).

Like other utilitarian theorists, Bentham regarded pain and pleasure as the criteria to determine right and wrong conducts. The elements of Bentham's happiness are the presence of pleasure and the absence of pain (Schofield, 2007, p. 16). In Bentham's view, the primary purpose and business of government is the promotion of the happiness of the society through the instrumentality of

punishment and rewards (Bentham, 1789, p. 43). Bentham consequently regarded happiness and not freedom as the end of the state (Mukhejee Ramaswamy, 2011, p. 326).

While Bentham can rightly be regarded as the precursor of the theory of happiness as a political principle, it is in the works of James Mill that the most explicit articulation of happiness as a political philosophy can be found. Mill in his classic *Essays* (1828) views government instrumentally. Government for Mill is established for specific purposes. In his opinion, '[G]overnment is a question about the adaptation of means to an end' (Mill, 1828, p. 3). Mill admitted that the end of government has been variously described by others to include the assurance of the 'greatest happiness of the greatest number' (Mill, 1828, p. 3). He points out that the various definitions are just but defective because the matters with which they deal are not clear and raised different ideas in the minds of different men; he therefore opined that the field of government is wide and difficult and that the spectrum of the science of human nature must be interrogated to lay the necessary foundation for the explanation of the science of government (Mill, 1828, p. 3).

Mill further notes that to understand the composition of the happiness of the greatest number, the composition or content of the happiness of the individuals must be understood (Mill, 1828, p. 3). According to him, the determining factor of every human beings destiny is pains and pleasures; the degree of a man's happiness is therefore tied to the degree by which the pleasures exceeds or surpasses the pains (Mill, 1828, p. 4). In other words, the extent of a man's happiness is determined by the extent to which the man's pleasures surpass his pain.

Mill goes on to say that there are two sources of man's pain and pleasure; first is man's fellow men and the second are causes independent of men. For Mill, government's pre-occupation is with the pleasures and pains caused by fellow men. The primary business of the government is therefore to maximise the pleasures men derive from one another and minimise the pain (Mill, 1828, p. 4). Mill further argues that because nature has not provided sufficient quantity of materials necessary to maximise man's pleasures and happiness, the tendency of every man is to subject others to his will and power in order to appropriate to himself, whenever he is able to, the available materials to maximise his own pleasure and happiness to the prejudice of the interests and happiness of the less able. Mill identifies the primary function of government in such a situation as

ensuring equitable distribution of the scarce materials of happiness among all members of the community while restraining the avarice and tendency of those with the inclination to subject others to their will in order to appropriate for themselves the scarce materials of happiness (Mill, 1828, p. 4).

In Mill's view, the means by which the society will be able to ensure equitable distribution of scarce materials of happiness and restrain those with tendency to appropriate those scarce resources to themselves is by the formulation of a type of government where the members of the community cede some of their powers to a few members of the community for the protection and safety of all (Mill, 1828, p. 5). Mill however points out that it is in the nature of men, whether an individual or group, to use power entrusted to them to further their own pleasure and happiness to the detriment of those who entrusted the power to them (Mill, 1828, p 5 – 15). Therefore, to ensure that those entrusted with the powers of government do not appropriate the powers to their own selfish ends, the community itself must check the few who have been entrusted with governmental powers. Thus, according to Mill, '... upon the right constitution of checks, all goodness of Government depends' (Mill, 1828, p. 16). The foregoing postulation of Mill about the nature of men entrusted with power to use the power to their own advantage and to the detriment of those who entrusted them with the power have a particular resonance in Nigeria where politicians and few privileged elites with political connections have turned the Nigerian economy into a rentier economy and through this have appropriated to themselves the commonwealth of all citizens of Nigeria (Obiliki, January 17, 2017).

Mill proposed that the checking of those entrusted with governmental powers can be done by the community through representatives chosen by the community for limited periods of time to ensure that the interests of the representatives constituting the checking body remain the same as that of the community (Mill, 1828, p 16 – 20). The above argument of Mill culminated in his proposition of a representative form of government as the best form of government which will guarantee and safeguard the maximisation of the pleasure and happiness of the greatest number in the community. His proposed representative form of government was however a more limited form than what we have today.

Going by the analysis above, happiness as a moral and political philosophy has two different dimensions. As a moral philosophy, happiness is a virtue, an end to which all human beings must aspire. It is also the criteria for right conduct i.e. ensuring the happiness of others is the highest morality. As a political philosophy,

happiness of the citizens and not their freedom is the end of the state. It is the ultimate objective that the state should aspire to; the criterion for determining good and bad laws, governmental actions and inactions. The primary purpose of the government is therefore to regulate human conduct and interactions to foster and further happiness and equitably allocate scarce resources to ensure the greatest pleasures and happiness of the greatest number of the citizens.

3. Right to Happiness in the Nigerian Constitution and Implications for the Economic Diversification Process

Having set out the broad parameters of happiness in western's moral and political thoughts above, this section focuses on identifying the sources and discussing the contours of the right to happiness in the Nigerian Constitution and analysing the likely implications of the right on the economic diversification initiatives in Nigeria.

3.1 Right to Happiness in the Nigerian Constitution

As pointed out in the introduction, the Nigerian Constitution has a particular view of the Nigerian economy and the way and manner of its operation and regulation. Section 16 of the Nigerian Constitution is the section concerned with and sets out the economic ideals and objectives of the Nigerian state. In other words, the section clearly defines and sets out what the ideals and objectives of the Nigerian state in relation to the Nigerian economy should be. As rightly noted by Nwabueze, the declared economic ideals of the Nigerian Constitution are '...freedom, equality, social justice and democracy', while the Constitution's economic objectives are a planned and balanced economy which avoids concentration of wealth or means of production in the hands of a privileged few and secures basic minimum goods like adequate shelter, food, functioning social welfare scheme and national minimum living wage, among others to the generality of Nigerian citizens (Nwabueze, 1982, p. 532).

The legal significance and implication of the declared ideals and objectives of the Nigerian Constitution for the Nigerian economy is lucidly explained by Nwabueze thus:

The *objectives* of preventing exploitation and the concentration of wealth, on the one hand, and the *ideals* of equality and social justice on the other hand, manifest a stand against capitalism in its pure, undiluted form, since 'unlimited private enterprise generates inequality, concentration of wealth (through survival of the fittest in the cut throat

competition of capitalism), exploitation (because wealth accumulation involves private appropriation of profit which defines exploitation of labour) and is, therefore, inherently unegalitarian'. Equally, the ideals of freedom and participatory democracy point against thorough being socialism. There would seem thus to be implied by the declared ideals and objectives a kind of half-way house between capitalism and socialism, a mixed kind of system that will permit of individual freedom of participation in the economy as well as optimum state participation and control, aimed at promoting social justice, the public welfare, and the minimisation of exploitation, inequality and concentration of wealth (Nwabueze, 1982, p. 532. Emphasis in original).

For Nwabueze therefore, the Nigerian Constitution creates a kind of a mixed economic system where both private actors, business persons and the government will have a more or less equal role to play in advancing and realising the economic ideals and objectives of the Constitution. The renowned constitutional law scholar was, however, quick to concede that taking the declared ideals and objectives of the Nigerian Constitution together, the Constitution tilts more on the side of socialism; but it is not socialism in the sense of total state ownership or management of the means of production and resources but one that envisages a socialist oriented economy and privileges centralised planning, regulation and management of the economy to achieve a balanced and egalitarian economic system within the ambit of a participatory democratic system of government (Nwabueze, 1982, pp 532 – 533). I agree with this conclusion of Nwabueze.

However, one of the core norms and guiding principles of Nigeria's socialist oriented constitution left out by Nwabueze in his analysis is the right to happiness. The happiness of the citizens of Nigeria is a constitutional right under section 16 (1) (b) of the Nigerian Constitution which creates a right and imposes a constitutional obligation upon the Nigerian state to ensure the happiness and welfare of the generality of the citizens. As rightly pointed out by Leal, '[i]n Nigeria, happiness is understood as a Constitutional right and is more than a mere linguistic expression' (July 18, 2016).

Section 16 (1) (b) of the Nigerian Constitution provides thus:

The State shall, within the context of the ideals and objectives for which provisions are made in this Constitution - control the national economy in such manner as to secure the maximum welfare, freedom and happiness of every citizen on the basis of social justice and equality of status and opportunity.

The right to happiness in Nigeria has its roots in section 16 (1) (a) of the Constitution of the Federal Republic of Nigeria, 1979 (the 1979 Constitution) and in *Bamidele Aturu v Minister of Petroleum Resources* (2009). The right makes its debut in section 16 (1) (a) of the 1979 Constitution which is replicated in section 16 (1) (b) of the present Nigerian Constitution. It was not a feature of earlier Nigerian constitutions. The inclusion of happiness as a constitutional right and the way it is crafted in the Nigerian Constitution clearly indicates that happiness is one of the ends of the Nigerian state. This foregoing position was given judicial sanction in *Bamidele Aturu v Minister of Petroleum Resources* (2009).

In *Bamidele Aturu v Minister of Petroleum Resources* (2009), the applicant challenged the deregulation of the downstream sector of the Nigerian oil industry with its incessant increases in the prices of petroleum products. This is on the ground that the deregulation and the incessant increases in the prices of petroleum products is a violation of the constitutional obligation of the Nigerian state to regulate and fix the prices of petroleum products in a manner that will secure the maximum welfare, freedom and happiness of Nigerian citizens under sections 16 (1) of the Nigerian Constitution and sections 6 (1) and 4 (1) of the Petroleum Act and the Price Control Act respectively. The Court agreed with these arguments of the applicant and held that the true intendment of section 16 (1) (b) of the Constitution and other existing laws cited by the applicant is that the economy of Nigeria including the downstream sector of the Nigerian oil industry will be regulated to further the welfare, freedom and happiness of the generality of citizens of Nigeria. The Court consequently declared the deregulation of the downstream sector of Nigeria's oil industry and the consequent incessant increase in the price of petroleum products unconstitutional as being against the economic objectives of the Nigerian Constitution. In effect, any economic policy or law that will negatively affect the purchasing power of the poor and vulnerable is most likely to run counter to the tenets of section 16 (1) (b) of the Nigerian Constitution.

This is not, however, to say that material well-being is the sum total of the right to happiness. Following Easterlin's classic psychological and economic analysis of happiness (2011), happiness as an entitlement will presuppose two different components: an objective and a subjective component. The objective component of happiness will presuppose material well-beings like access to basic necessities of life and other material wherewithal for a qualitative life while the subjective component will presuppose non-material sources of happiness like family, good health, general freedom and an enabling environment for self-realisation. As

rightly noted by Easterlin, material well-being alone is insufficient to guarantee happiness in the long run, for that to happen; material well-being must be supplemented with and accompanied by psychological well-being (Easterlin, 2011). A complete right to happiness regime will therefore not only guarantee entitlement and access to basic necessities of life like nutritious and culturally compatible food, potable and sufficient water, adequate shelter, accessible and qualitative education and other material wherewithal that will make life meaningful, a complete right to happiness regime must also guarantee general freedom and an enabling environment for self-actualisation which will in turn foster psychological well-being. Some of the implications of the right to happiness regime as analysed above for Nigeria's economic diversification process is examined below.

3.2 Implication of the Right to Happiness for the Economic Diversification Process

At least, five clear implications of the right to happiness on the economic diversification process in Nigeria are deducible. The first is that it diminishes 'the strength of money in areas which must not be sold' (Leal, July 18, 2016). This means the economy or the diversification process must not be run or undertaken in the sole pursuits of gain or profits or in a way that will prejudice basic necessities of life like water, food, shelter, education etc. for the ordinary Nigerians. As argued elsewhere, the most radical implication of section 16 (1) (b) of the Nigerian Constitution is that it appeared to have outlawed neo-liberalism with its undue focus on profits at the expense of human welfare and happiness (Akintayo, 2014). What the foregoing means in effect is that the diversification process cannot be all about profit and economic development without due regard to the happiness and welfare of the poor and other vulnerable members of the Nigerian society.

The second implication of the right for the diversification process is that the process must be undertaken in a way to ensure wealth redistribution and reduce the yawning gap between the rich and the poor in order to foster a more egalitarian society in Nigeria. As pointed out by Mill above, the primary purpose for the existence of a government is to distribute equitably the scarce materials of happiness to ensure the greatest happiness of the greatest number of the people. A situation of yawning gap between the rich and poor in a society underpinned by the political philosophy of happiness, as Nigeria's constitutional regime, is incompatible with this obligation of the state to equitably distribute the scarce materials of happiness.

The third implication of the right to happiness on the diversification process is the obligation to reduce chronic and endemic corruption in the process. Again, as rightly pointed out by Mill above, the materials necessary to guarantee the happiness of man has not been sufficiently provided by nature. As a result of this, those who have been entrusted with power to safeguard these resources and guarantee the happiness of citizens have a tendency to abuse their positions and appropriate the scarce materials of happiness to themselves at the detriment and jeopardy of those that entrusted them with the power and trust. The primary obligation of the government in such situation is to prevent and rein-in the excesses of those who will abuse the public power and trust invested in them to appropriate the commonwealth of the country to their own personal use. Entrenched and widespread corruption in the diversification process will be incompatible with the function and obligation of the government under a constitutional regime underpinned by happiness as a constitutional norm.

The fourth implication of the constitutional right to happiness in the Nigerian Constitution is the constitutional requirement that the diversification process must be human-centred. That is, the process must have human happiness and welfare as its end. This is what the provisions of section 16 (1) (b) of the Nigerian Constitution requires of all economic initiatives and policies. This reading of the constitutional provision is in consonance with the interpretation that the Court placed on the provisions in *Bamidele Aturu v Minister of Petroleum Resources*(2009) when the Court held that section 16 (1) (b) of the Nigerian Constitution mandates that economic initiatives and policies of the Nigerian government must have the happiness, freedom and welfare of the citizens of Nigeria as its end. Any economic policy or initiative that will negate these constitutional mandates will be unconstitutional as a violation of section 16 (1) (b) of the Nigerian Constitution.

Finally, the right to happiness regime disavows any form of economic exploitation. In Leal's view, the unbridled economic exploitation of the African continent during colonial times '...left a heritage of a profound and ingrained sense of repulsion against any form of economic exploitation' and accounted for the constitutionalisation of happiness in some African constitutions, Nigeria inclusive (Leal, July 18, 2016). Consequently, the economic diversification process cannot be one that encourages or permits economic exploitation of the citizens in any form or under any guise. The current practice where some businesses and service providers charge or bill citizens for services not rendered

or provided is therefore a form of economic exploitation. It is not only illegal but unconstitutional as well.

Having examined in some details the implication of the constitutional right to happiness on the diversification process; I now turn to the interrogation of how the right to happiness approach may be better suited to address Nigeria's economic development deficit in the next section below.

4. Potential Advantages of the Right to Happiness Approach in Addressing Nigeria's Economic Development Deficit

Before going on to discuss the likely advantages of the right to happiness approach in tackling Nigeria's economic and development deficit, it is appropriate to address some objections that may be levelled against the theorisation or articulation of the right to happiness in Nigeria. The first is that the right is contained in the non-justiciable part of the Nigerian Constitution and that they are not rights properly so called if they are not enforceable in court. My response to that objection is that the claim that rights are not rights if not judicially enforceable is a positivist argument. The existence of rights is not premised only on judicial enforceability. More importantly, however, is the fact that non-justiciability of the rights in Chapter II of the Nigerian Constitution does not absolve the Nigerian government of its constitutional obligation to 'conform to, observe and apply the provision' of Chapter II as clearly commanded by section 13 of the Nigerian Constitution.

The second objection that may be raised is that right to happiness is a relatively new right whose content and contours are yet to be clearly articulated. In response I say, firstly, that the newness of a right is not a bar to its emergence and theorisation. Many of today's established rights were new at some point in time. Secondly, the right to happiness is in actual fact not such a new right. Its contents are very similar to the human capability approach of Amartya Sen and other human development scholars. Only that the right to happiness approach as analysed here is more focussed and contextual and draws on recent studies that more clearly tease out not only the economic but also the psychological dimension or component of human well-being. Having dispensed with some objections that may be raised against the theorisation of the right to happiness in Nigeria, I now turn to the potential advantages of the right to happiness approach below.

As pointed in the introduction, the UN has in a report detailed the main defects of the Nigerian economy as lack of governance, deep inequality, extreme poverty

and hunger and people centred economic policies and investment has been proffered as solution (Channels Television, September 05,2016). Studies in fact exist which shows that a solely economic or profit oriented approach to development cannot bring about development in real terms. It can at best only create a few rich men and a legion of the poor. A people centred and human capabilities approach to development has thus been rightly advanced as a better alternative by development scholars (Sen, 2001; Nussbaum, 2000). The right to happiness approach is in this wise better placed to foster human and people centred approach to economic development in Nigeria because the human centred requirement lies at the core of the approach.

Equitable distribution of wealth is another core norm of the right to happiness approach which stands it in good stead in addressing the development deficit of the Nigerian economy. As noted above, some of the banes of economic development in Nigeria are widespread and prevalent poverty, exclusion and very wide gap between the rich and the poor. The rights regime with the real potential to tackle these challenges is one that normatively requires equitable distribution and redistribution of wealth. The right to happiness is also well suited here to address Nigeria's development deficits as equitable distribution of wealth is also one of its core norms as earlier analysis in this article has shown.

In addition, the right to happiness approach have the further advantage of requiring positive action from every member of a political community to promote and realise the happiness of other persons. That is, it is not only the government that is legally obliged to realise the happiness of citizens, each citizen is also mandated to ensure that they actively seek the happiness of other persons. While all human rights norms require that right bearers respect the rights of other persons, the right to happiness is different in that it is about the only right which requires that citizens actively seek the happiness of others beyond the obligation not to impair or violate the rights of others. A society where everybody is his or her brother's or sister's keeper as a matter of right and obligation will most likely be heavenly and so will the development also be.

Finally, the right to happiness is an umbrella right housing some other rights critical to human capability and development. The right not only require material well-being but also an enabling environment which will foster general freedom and psychological well-being of right bearers. Material and psychological well-being coupled with general freedom for self-actualisation are the important and requisite ingredients of human capability and development. And it is only within

the context of human capability and development that a robust, inclusive and sustainable economic development is possible. This is another value added of the right to happiness approach to human and economic development in Nigeria.

5. Concluding Remarks

Diversification of Nigeria's economic base has become unavoidable and a necessity at this time when the country simultaneously faces dwindling oil revenues and a drastic cut in oil production as a result of the militancy in the Niger-Delta in consequence of which the economy has gone into recession. I, however, argue in this article that the Nigerian Constitution has particular ideals and objectives of the Nigerian economy outside of which the diversification process cannot be legitimately undertaken. I point out also that one of the key norms of the constitutional ideals and objectives is the right to happiness in section 16 (1) (b) of the Nigerian Constitution. I therefore examined the implication on the diversification process of the right to happiness in the Nigerian Constitution.

I started by tracing the development and contours of happiness in western moral and political philosophy because those are what underpin Nigeria's constitutional and political arrangement. Next, I examined the sources and ambit of the right to happiness under the Nigerian Constitution and thereafter analysed the implications of the right for economic diversification laws and policies. Analysis revealed that the Nigerian Constitution is social democratic in orientation as against the neo-liberal bent of some of the government's economic policies and laws. Five different implications of the right to happiness on the diversification initiatives of the government were thereafter identified and discussed. This is followed by the interrogation of the potential advantages of the right to happiness approach in addressing Nigeria's development deficit.

Finally, what the analysis in this article reveals is that the Nigerian Constitution perspectives on how the economy of Nigeria should be run tallies with the conclusions from development studies that for all round and sustainable economic development, laws and policies must be people focussed and inclusive; wealth and means of production must not be concentrated in a few privileged hands and wealth and scarce resources must be equitably distributed among all the citizens. This is the end that the Nigerian Constitution require must be served by all economic laws and policies through its economic ideals and objectives of which the right to happiness is one. It is a constitutional imperative that the diversification process tallies with these constitutional ideals and objectives.

Anything to the contrary will be a violation of the obligation of all organs of government to conform to and apply the provisions of the constitution and will be unconstitutional, null and void.

References

- Akintayo, A. (2014). A good thing from Nazareth? Stemming the tide of neo-liberalism against socio-economic rights: Lessons from the Nigerian case of *Bamidele Aturu v Minister of Petroleum Resources and Others*. *Economic and Social Rights Review* 15 (2) 5-9
- Bamidele Aturu v Minister of Petroleum Resources* (2009) Suit No: FHC/ABJ/CS/591/09
- Bentham, J. (1789). *An introduction to principles of morals and legislation*. Retrieved from <http://www.earlymoderntexts.com/assets/pdfs/bentham1780.pdf>
- Channels Television (2016, September 05). *UN picks holes in Nigeria's economy*. Retrieved from <http://www.channelstv.com/2016/09/05/un-picks-holes-in-nigerias-economy/>
- Channels Television (2016, July 15). *NERC appeals jjmt of Lagos Court*. Retrieved from <http://www.channelstv.com/2016/07/15/electricity-tariff-nerc-appeals-judgment-lagos-court/>
- Channels Television (2016, July 25). *Tariff hike: NERC insists Court Order not flouted*. Retrieved from <http://www.channelstv.com/2016/07/18/tariff-hike-nerc-insists-court-order-not-flouted/>
- Cumberland, R. A. (1727). *Treatise of the laws of nature* (trans J Maxwell). Retrieved from <http://oll.libertyfund.org/titles/cumberland-a-treatise-of-the-laws-of-nature>
- Easterlin, R. A. (2011). *Happiness, growth, and the life cycle*. In H Hinte and K F Zimmermann (Eds) Oxford, Oxford University Press
- Gay, J. (1731). A dissertation concerning the fundamental principle and immediate criterion of virtue. in Frances King's *An Essay on the Origin of Evil*. Retrieved from <https://ia802701.us.archive.org/23/items/anesayonorigin00kinggoog/anesayonorigin00kinggoog.pdf>
- Leal, S. (2016, July 18). *Happiness as constitutional empowerment in Nigeria*. Retrieved from <https://africlaw.com/2016/05/20/happiness-as-constitutional-empowerment-in-nigeria/>

- Leal, S. (2016, July 18). The right to happiness in Africa. Retrieved from <https://africlaw.com/2016/07/13/the-right-to-happiness-in-africa/#more-1187>
- Mill, J. (1828) *Essays on government*. Retrieved from https://books.google.com.ng/books?hl=en&lr=&id=Bm9jAAAACAAJ&oi=fnd&pg=PA3&dq=James+Mill+Essay+on+government&ots=GUMmeRESOd&sig=oiCSNYHoZSwpFni2JvsKMd_mBVY&redir_esc=y#v=onepage&q&f=false
- Mukhejee, S. & Ramaswamy S. (2011). *A history of political thought: Plato to Marx*. 2nd Ed. New Delhi, PHI Learning Private Ltd.
- Nussbaum, M (2000). *Women and human development: The capabilities approach*. New York, Cambridge University Press
- Nwabueze, B. O., (1982). *The Presidential Constitution of Nigeria*. Lagos: C Hurst and Co. Ltd.
- Obikili, N. (2017, January 17). The political economy of BDCs and black market premiums. Retrieved from <https://guardian.ng/business-services/the-political-economy-of-bdcs-and-black-market-premiums/>
- Schofield, P. (2007). Utility and democracy: The political thought of Jeremy Bentham. DOI: 10.1093/acprol:oso/9780198208563.001,0001
- Sen, A. (2001). *Development as freedom*. Oxford: Oxford University Press
- Stanford Encyclopaedia of Philosophy (2014). The history of utilitarianism. Retrieved from <https://plato.stanford.edu/entries/utilitarianism-history/>
- The Guardian (2016, July 15). Court declares electricity tariff increment illegal. Retrieved from <http://guardian.ng/news/court-declares-electricity-tariff-increment-illegal/>