THE ROLE OF LAW IN FINANCING THE NIGERIAN INFORMAL SECTOR

O.O. Oladele

Introduction

Nigeria has a population of over 100 million and the second largest economy in Sub-Saharan Africa. However, it largely is a primary producer. Agriculture accounts for about 40 per cent of the GNP, while manufacturing is just 10 per cent. Two- thirds of the work force is employed in manual and subsistent agriculture. An uncertain but considerable number do petty trading. Most of these do not have access to the formal financial market credit because of factors which include the perceived risk of the venture, unaffordable transaction cost, their inability to secure that credit, as well as problems associated with loan recovery. These expectedly limit their productivity. Since many in this sector are not educated for other sectors, they are immobile.

In the early 1970s, the Nigerian government made the indigenization policy. The policy meant to reduce the domination by foreigners of the Nigerian economy, encourage Nigerians to invest in the various sectors of the economy, and thereby progressively control it, as well as create a partnership between domestic capital, foreign technology and managerial expertise.

The legal framework for indigenization addressed most of the structural issues. However, if the formal financial sector met the financial needs of the industrial sector, it did not, and does not seem, considerably, to be able to accommodate those of the informal sector. Expectedly, the policy achieved a limited success. The informal sector did not receive significant boost, as it ought to.

By the time the indigenization statute was amended structurally in 1989, the local currency had depreciated in value, inflation had reached three digits, unemployment had risen, to the extent that the well educated but unemployed now seek employment in the informal sector through small and medium scale enterprises, the problematic access to credit thus reached a higher magnitude.

In 1995, Nigeria reversed its indigenization policy. It enacted the Nigerian Investment Promotion Commission Decree to promote foreign investment in most of the sectors of the economy. While Nigeria waits for foreign investment, there is an urgent and compelling need to promote the informal sector that provides the means of livelihood for most Nigerians, and the launch pad for domestic industrial growth and development.

This article discusses the role of law in informal sector finance and development. It revisits the indigenization policy to the extent that it concerns the informal sector, discusses some of the existing informal (non-regulated) financial arrangements, and the role of law in appropriating them to the needs of the informal sector of the economy.

This article focuses Nigeria because it is a prominent developing country with a growing informal sector. To the extent of their relevance, examples are drawn from other developing countries in Africa and Asia.

The Nigerian Economy and the Informal Sector

The Nigerian GNP per capital in 1983 was US$770, by 1988 it had fallen to US$290; while in 1998 it stood at US$300,[1] it currently is below US$300. The annual growth rate for 1965-1983 was 3.2 per cent. The rate for 1965-1988 was 0.9 per cent.[2]

Agriculture accounts for about forty per-cent of the GNP, while manufacturing accounts for ten per cent.[3] It provides employment for two- thirds of the labour force, which in the past ten years, include unemployed school graduates, some of who engage also in other small and medium scale enterprises.

---

[1] World Bank Report, 1999.
[2] World Bank Reports,1985 and 1990.
[3] *Id.*

An uncertain, but growing number of Nigerians do petty trading at a highly proliferating rate, due to paucity of established shopping outlets. Agriculture, petty trade and other small-scale enterprises provide means of livelihood for retiring public officers who are still active or whose retirement benefits are inadequate to sustain life.[4]

The Nigerian government has long recognized the importance of the informal sector of the Nigerian economy. In 1972, it promulgated the Nigerian Enterprises Promotion Act[5] (Indigenization Act). That Act was repealed in 1977 by another indigenization statute.[6]

The 1977 statute classified all Nigerian business enterprises into three, according to their level of sophistication, capitalization, and the expertise of Nigerians in managing them.

Schedule 1 consisted of enterprises exclusively reserved for Nigerians. They included simple businesses like agriculture, advertising and public relations, pool betting and lotteries, bread and cake baking, candle manufacture, commercial transportation, and estate agency.[7]

Schedule 2 enterprises are more sophisticated enterprises that allowed sixty per cent equity holding by Nigerians and forty per cent holding by foreigners. They consisted of commercial, merchant, and development banking, iron and steel manufacture, construction, fertilizer production, cosmetics and perfumery manufacture, and similar activities.[8]

Sophisticated manufacturing was classified in Schedule 3. They allowed sixty per cent equity holding by foreigners.[9]

---

[4] Minimum wage in Nigeria is around US$70 per month at the Federal level, and may be less for states' employees.

[5] No.4 of 1972.

[6] Nigerian Enterprises Promotion Act, No.3 of 1977.

[7] *Id.*,s.4.

[8] *Id.*,s.5.

[9] *Id.*,s.6.

The government was interested in the evolution of a new crop of indigenous entrepreneurs with sufficient capital, technological knowledge and international connections to take control of the economy. At the same time, it intended to create a partnership between emerging indigenous entrepreneurs and foreign investors, and ensure that foreign capital and technology are directed to the sector where they were most needed.[10]

Those economic goals remain valid even though the indigenization statute was repealed in 1995 by the Nigerian Investment Promotion Commission Decree[11] The latter enables non - Nigerians to invest and participate in managing any enterprise in Nigeria,[12] subject to the provisions of the Decree.

Justification for Informal Sector Financing

Law, among other things, regulates relationships, and it is able to do this in a productive way if it seeks to solve the problems of its subjects, based on their particular experience and circumstances. Therefore, it ought to address the needs and aspirations of the people, and not just promote a model that is suited to the experience, conditions and situation of other people. Model promotion usually beclouds the ability of the law to solve the problems of the people whose affairs it seeks to regulate.

The Nigerian economy is in recession as could be determined by growing unemployment rate. Even in an utopian economy where there is no cash flow problem, preference for liquidity could be a source of unemployment crisis, how much more an economy that suffers inadequate financing. It is axiomatic that such an economy needs a financing "jump-start". This is most true of the Nigerian informal sector that is unable to secure adequate and affordable formal financial sector credit under the existing legal framework. In the 1930s, J.M. Keynes had argued that public works, publicly financed, were necessary to "jump-start" the depressed economies

---

[10] Federal Military Government, Guidelines On The Third National Development Plan, 1975-1980, (Lagos, 1973).

[11] No.16 of 1995.

[12] *Id.*,s.18.

of that time.[13] I submit that the Nigerian legal system needs urgently and persistently to pursue such a goal.

Model promotion probably has prevented the Nigerian legal system from meeting the development needs of the primary sector of the Nigerian economy.

Since the 1960's the Federal Government has made successive policies to enhance agricultural output. In1973, it established the Nigerian Agricultural Credit Bank to make credit available for agriculture development. In 1977, it established the Agricultural Credit Guarantee Scheme Fund under Decree 20 of that year so as to increase commercial and merchant banks lending to agriculture. The Scheme guaranteed bank loans to farmers 75 per cent against default. Where a loan beneficiary defaulted, the Fund paid the lending bank from the security pledged by the borrower. The scheme had an authorized capital of N100 million. The enabling decree compelled banks to grant at least 18 per cent of their loans and advances to the agriculture and agro-allied activities.[14] However, sectoral allocation of credit to agriculture was abolished in 1996.[15] Presently, financial institutions do not want to give credit to the agricultural sector. According to Rogers who is the CEO of Gulf Bank of Nigeria Plc., this is "...because of the risk involved and the duration of such loans, which is ordinarily over a long period of time. Hence, an average small or medium-scale farmer does not have access to [bank] credit facilities"[16] because he could not afford the cost. The same goes many other informal sector entrepreneurs.

Rogers' observation is real. Findings in a cross section of low-income countries reveal that there are just a few sustainable formal sector

---

[13] John Maynard Keynes, THE GENERAL THEORY OF EMPLOYMENT, INTEREST AND MONEY (1936).

[14] Decree 18 of 1988 which amended the enabling decree waived tangible security for loans of up till N5,000

[15] Babajide A. Rogers, *Policy Recommendations on Agriculture*, THE GUARDIAN, Oct.22, 1999.

[16] *Id.*

agricultural credit programs.[17] Adams observed that "...large numbers of transitory credit activities...have been plagued by loan recovery problems, chronic dependency on outside funds, and excessive transaction costs...that sustainable rural credit programs is far more difficult to do than most of us had heretofore thought."[18] However, he added the good news that in Bolivia and the Philippines "...informal finance [thrives] amidst the rubbles of formal financial markets."[19] He observed further that, the former recover their loans, while the latter are plagued by defaults.[20] He identified the sources of that informal finance as sophisticated but unregulated institutions, moneylenders, merchants, pawnbrokers, loan brokers, landlords, friends and relatives, money guards, and saving groups.[21]

Data available from a systematic survey reveal that formal credit is scarce in rural Africa. A study carried out as far back as 1990 revealed that of its financing need, the informal sector was able to source only a meager 7.5 percent from banks, companies and projects.[22]

Another study carried out in randomly selected villages of the Zaria area of the Northern Nigeria sampled 190 households, and established that there are almost no formal lender in the study area[23]

Also, in the three Local Government areas around Igbeti, Oyo State of Nigeria the, home place of this author, there are only two formal lenders, namely the Wema Bank Plc. and the Community Bank Ltd., both with about five branches located in the three

---

[17] Dale W. Adams, *Taking a Fresh Look At Informal Finance*, *in* Philippe Callier ed., FINANCIAL SYSTEMS AND DEVELOPMENT IN AFRICA (Washington D.C.: The World Bank, 1991) p.29.

[18] *Id.*

[19] *Id.*

[20] *Id.*

[21] *Id.* at 31-34.

[22] Christopher Udry, *Credit Markets in Northern Nigeria: Credit as Insurance in rural Economy*, 4 WORLD BANK ECONOMIC REVIEW, No. 3, 251 at 255

[23] Christopher Audry, *supra*, at 259.

headquarter towns, and none in the many villages that constitute the rest of the Local Government areas.

Formal sector loans may not be the best economic option for the informal sector operators because of the cost to them by way of interest and collateral security. Consequently, low patronage would be a disincentive to wider operation of formal lenders in rural areas.

However, informal sector credit system exists in Nigeria. Its place within the Nigerian legal system as well as its operation and the place it ought to occupy are discussed in the remaining part of this article.

On October 3, 1989, the Federal Government established the People's Bank of Nigeria, and validated it a couple of years thereafter by Decree 22 of 1991. The government fashioned the bank after the Grammen Bank of Bangladesh and the Badam Kredit Kecamatan (BKK) of Indonesia. In Bangladesh Dr. Muhammad Yunus, an economics professor, established The Grameen Bank in 1983.The Bank provides the rural poor, particularly women, credit on reasonable terms that excludes collaterization. The loan beneficiaries agree to guarantee and monitor one another within their self-constituted group.[24] The bank consistently has maintained a higher than 90 percent loan recovery, recorded as one of the highest among development finance institution that provide rural credit.[25]

By its enabling statute, the People's Bank of Nigeria was to provide loans for poor and low income Nigerians, the unemployed, small-scale entrepreneurs and other participants in the informal sector of the Nigerian economy in both the rural and urban areas. The rationale being that most of the target beneficiaries had no access to conventional bank credit to the extent that they could not provide collateral security for loans. In addition, the bank could accept deposits from the same target groups, pay interests on the

---

[24] Shahidur R. Khandker, Baqui Khalily Zahed Khan, *Grameen Bank Performance,In* WORLD BANK DISCUSSION PAPERS, (1995), p.ix.

[25] *Id.*

deposits as well as place the deposits with commercial and merchant banks on short-term basis.

The Federal Government provided the initial equity capital of N230 million while states governments as well as private citizens were welcome to give loans to the bank. By mid-1991, the Federal Governments had given the bank a grant of N270.5million.[26]

The bank gives loans to individuals on the basis of membership of the target groups as well as to selected groups with the hope that peer monitoring would ease repayment. Each group elects its chairman and secretary as well as meets regularly. The bank studies the group for a period before selecting two members for loans. The loan beneficiary repays by intalments. The group guarantees the repayment, and it is ineligible for further loans once one of its members defaulted.[27]

Since the bank was established, it has supplied affordable credit to many informal sector participants without requiring them to provide collateral security.[28] The bank recorded 51.7 per cent loan recovery at the end of June 1991[29], barely a couple of years after its establishment. That trend, which was hardly encouraging, indicated the attitude of most of the loan beneficiaries to repayment. It is possible that most of them regarded the loans as their piece of the national cake and saw no pressing need for repayment. In fact, an official of the Central Bank of Nigeria posited as far back as 1991 it was insufficient to attach loan repayment to peer group monitoring only but loan disbursement ought to be tied also to the beneficiary's savings as the Grammen Bank does[30] It also is important that such loans be given by way of equipment, tools, raw materials seedlings as well as other things that are relevant to creation of wealth to ensure that they are not dissipated.

---

[26] See generally J.A. Babalola, *The People's Bank of Nigeria: Review and Update*, 15 BULLION, No 3, (July/September 1991), at 5.

[27] *Id.*

[28] *Id.*, p.7

[29] See People's Bank of Nigeria, SUMMARY OF LOAN DISBURSEMENT AND REPAYMENT AS AT 1991

[30] Babalola, *supra*, at 9.

The government recently proposed to merge the People's bank with the Agricultural Co-operative Bank so as to form the Nigerian Agricultural and Rural Development Bank (NARDB).While it is unclear still what the functions and operation of the bank will be like, this article submits that its operation ought to be tied to the traditional financing arrangements of the people in order to ensure efficient and productive allocation of its resources to satisfy the financing needs of the primary sector, create more jobs, alleviate poverty, reduce loan default as well as informational asymmetries. It also is important to tackle at the onset the problem of moral hazard, at some loan beneficiaries could be tempted to regard their loans as their piece of the national cake.

In 1992, the defunct Federal Military Government of Nigeria promulgated the Community Bank decree.[31] That decree authorized all willing communities to establish community banks so that by providing finance and banking services, the banks would promote rural development. In addition, the decree anticipated that the services of the bank would enhance productive activities in rural areas, and boost small-scale production in both rural and urban areas of Nigeria.[32]

Without prejudice to the preceding, the enabling decree empowered the banks to perform all the usual banking functions and "...such non-banking functions as may promote grass-root development within the bank[s]' geographical area.[33]

The banks could raise "matching loan or advance" and generally improve their working capital by borrowing from the Board of Community banks at the Central Bank of Nigeria minimum rediscount rate.[34] It necessarily followed that it would charge interests according to the same rate. While this bank is conceptually laudable, to the extent that its interest rates progressively have aligned to those of commercial banks, it is doubtful that the Community Banks will continue to be a viable

[31] No. 46 of 1992
[32] S.1(1) *id.*
[33] S.5 *id.*
[34] S.12(1) *id.*

financing source for the informal sector. The added justification for this opinion is that the Community Bank demands real property collateral security· as commercial banks. No doubt, collateral security reduces the cost to the lender of loan default as well as the incidence of moral hazard by giving the borrower the incentive to repay. Arguably, it also alleviates the problem of adverse selection of borrowers by reducing those who are more likely to default in repayment.[35] However, to the extent that it also limits access to credit, it ceases to be conducive to informal sector development and poverty alleviation.

Traditional Financing Arrangement and the Legal System

The Nigeria society is organized on a traditional system of cooperativeness. The family usually is the unit of accountability. The family includes grandparents, granduncles, the parents, uncles, cousins, children, and cousin's children. Therefore, it follows that there are bases for cooperation, such as the family meeting, community meeting, town meeting, trade guilds, sizable societies within the same religion, sect, church, mosque, denomination, and other associations. Most of these groups have systems of resource pooling and drawing, savings and lending.[36] Before, discussing some of the schemes, it is important to keep in mind that, because most of them are relational in membership and operation, the terms of lending usually are liberal, and loan recovery generally, is neither expensive nor difficult. These groups maintain high- level information network about members and are regulated by social control.

Community Savings (ESUSU SCHEMES)

Community savings (*Esusu* Scheme) is an informal group savings scheme. A group of individuals, defined by test of proximity of living neighbourhood, family, trade, occupation relationship or other affinity, appoint a group of fund managers, or patronize reliable and trustworthy members of that group who hold themselves out,

---

[35] See Audry, *Supra* at 252.

[36] This author participates in a number of these schemes as a member, director, manager, and advisor. The author's marriage ceremony was financed through one of the schemes. Presently, the spouse's business is a participating beneficiary of another of the schemes.

to manage or keep the funds they contribute to them. Every member of the group contributes a fixed sum determined by her according to her ability, usually in blocks, subject to a minimum sum, set by the group according to the ability of the member that has the least financial resource. The contribution may be daily, weekly or monthly. Every member may draw from the funds when in need of funds, according to a multiplier set by the group. The nature of the trade, occupation or vocation of the borrower may determine repayment period. Therefore, a trader may be made to pay on daily, weekly, monthly, or seasonal basis, depending on the type of her trade. Farmers repay seasonally, while salaried members repay monthly. The repayment period which is liberal and spread over a period of time takes cognizance of the general repayment ability of the every member of the group. For ease of repayment, the loan usually is a multiplier of the borrower's total contribution at the time she takes the loan.

The fund managers do not take any fee because they are members of the group, who benefit from the scheme. Where they are wealthy people who turn capital round frequently, the group may permit them to borrow whatever funds remain in its account after all immediate loans and advances have been made.

The "*esusu*" loans and advances may or may not attract interest, since the parties are free to make their own arrangements. Where interest is payable, it usually is very liberal and meant to demand some level of obligation from the borrower.

The Community saving schemes also could take the form of a periodic fixed contribution of money (Ajo), which members take turn to draw. Under this variety, the member whose turn it is draws all the contribution. For example, each of twelve persons may agree to contribute N1000 monthly for a circle of twelve months. Each of them takes turn to draw the entire pool when most suited to her trade or financial need. The parties may make bilateral or multilateral arrangements with themselves, swapping their turns as urgent needs arise. Under this arrangement, no interest is paid. The arrangement may continue on a revolving basis until the parties agree to terminate it.

Savings groups similar to those above exist in other African countries, Islamic countries, as well as Thailand.[37] These groups operate similarly, depositing funds regularly or irregularly with group leaders. Usually, they are formed informally, albeit, "spontaneously".[38] In Thailand, the Community Development Department, a government agency, assists to organize them. The community development department of Local Governments in Nigeria also could assist in organizing similar groups there. Presently, those of the groups that are registered as cooperative societies receive the technical assistance of an officer of the Ministry of Cooperatives in the state of domicile. It is important for the Local Government and the Ministry of Cooperatives to cooperate so they could complement one another's effort to effectively assist these groups, including those that are not registered as cooperatives. The Local Government statutes will have to be amended to give the Local Government Councils enabling powers. Local Governments will have to include in their by-laws provisions that suit their development and poverty alleviation needs. This should not be any problem since they ought to have Legal Advisers who are indigenes, and ordinarily should be familiar with the local needs and aspirations. Aside from the expected first hand knowledge of the Legal Advisers, the Local Government Chairmen, Vice-Chairmen and Councillors are elected from among the people, and the Councillors represent the various Wards of the communities that form the Local Governments. As the voice of the people, they should be familiar with their needs as the people expect effective representation by and feedback from them.

Community savings and loans, as well as advances schemes have the advantage of enormous information flow, peer monitoring, fear of social stigma, as well as relatively easy and reliable risk evaluation, which limit default, and make loan recovery easy. The operators of the schemes maintain close-knit relationships and a high level of information. They operate within the framework of social control that persuades the members to be prudent and compliant. Borrowers from these schemes often fear denial of further access to funds because it injures their business and

---

[37] Dale W. Adams, *supra.*,p.33

[38] *id.*

reputation. The control mechanism becomes even more efficacious where religion is the basis for the association, or the schemes are located within the religion that binds the operators together.

Another community savings scheme is the micro savings scheme, known to the Western Nigerians as "*Ajo Ojumo*" or daily contribution. Under this scheme, an independent fund manager holds herself out to collect and keep the savings of her clients, made up of their daily monetary contributions. At the beginning of every month, each patron of the scheme fixes what her daily contribution will be for the month. The first day contribution is the fund manager's fee. At the end of the month, the contribution circle ends, and every patron draws her savings. Another circle of contribution begins on the first day of the month following. The patrons of this scheme receive an agreed interest on their savings, and the fund manager is at liberty to invest the fund the way he deems it fit. A patron may withdraw her savings at any time subject to an agreed notice, and on the condition that she cannot secure a refund of the fee paid to the fund manager.

The money guard scheme is similar to the daily contribution scheme. The money guard scheme has been reported to exist in Niger Republic, Nigeria's northern neighbour, Bangladesh, as well as in India.[39] The money guard is a trustworthy person who agrees to keep money deposits by others. Most of these funds earn no interests, because the owners believe the money guard does them a favor. The money guard may use the funds for his own purpose at his discretion. He may decide to give the owners periodic gifts for the use of the funds.[40] Since the daily contributions, as well as funds subject to the money guard scheme are not productive to the fund owners, there is the need to enact a policy to assist the depositors to invest them efficiently.

The policy could be tied to the one designed for the other community savings schemes.

---

[39] Dale W. Adams, *supra*. at 33.
[40] *Id*.

It is surprising that although the Community Savings schemes have existed since time immemorial, the only recognition that the Nigerian law has given them is to require that they register free of charge with the Securities and Exchange Commission "for statistical purpose only". The Investment and Securities Act[41] provides as follows:

> (1) As from the commencement of this Decree the [Securities and Exchange] Commission shall register collective investment schemes falling within the category of community savings schemes which include "Esusu" schemes and such other similar schemes operating within Nigeria.
>
> (2) The registration of the community savings schemes referred to in subsection (1) of this section shall be for statistical purposes only and such schemes shall not be subject to the other provisions of this...Decree regulating the activities and operations of other collective investment schemes registered under... this Decree.
>
> (3) The Commission shall prescribe forms for the registration of the schemes referred to in subsection (1) of this section.
>
> (4) The Commission shall not charge any registration fee for services rendered under this section of this Decree.

The Investment and Securities Act seems to recognize the existence of the community savings schemes of the people of Nigeria, but it seems it does not recognize their importance. If it does, it certainly has not offered the schemes any support. It is ironical that the decree says it renders "services" to the schemes by compelling them to register with the Commission "for statistical purposes only", without any benefit to them.

What these schemes need is not mere registration, but a legal framework that will enhance their resources and operations to adequately meet the financial needs of the primary sector. In addition, the following steps could be taken:

---

[41] No.45 of 1999, s.146.

(i) The savings scheme should be made to register with the successor of the People's Bank in their immediate community;

(ii) The board of the succeeding Bank should consist of the representatives of the community savings schemes, and a representative each (in advisory capacity) of the Ministries of finance, commerce and industries, as well as agriculture, or any other agency that is material to the need of the primary sector in that locality;

(iii) While the schemes may continue with their contribution model, they should bank with the succeeding Bank;

(iv) The Bank should be capitalized by the government, and made to give loans to members of the scheme on liberal terms, according to their ongoing investment or projects. While the loans may be proportionate to each member's contribution or savings, viable projects or trades should be financed even though disproportionately to the proprietor's savings;

(v) Continuous contributions of the schemes' members should be the Bank's source of additional cash flow;

(vi) Since loan recovery has not been a serious problem of these schemes because of their relational character, the relational character and its existing internal control, as well as its loan repayment and recovery should be retained and improved upon as the need arises;

(vii) Since loans under the existing schemes are not collaterized, the borrowers should not furnish collateral. The monitoring mechanisms of the existing schemes, which are group, peer, family or association based, should be adopted. If each scheme is made the unit of accountability, it becomes the responsibility of that scheme to monitor its unit. Reduction of advances to the scheme that defaults frequently could be a weapon of control;

(viii) Any variation of the suggestion above may be adopted as the scheme moves from the pilot stage to maturity. It may be that the schemes would not be represented on the board of the bank, but will relate to it in another way to achieve the goal of poverty alleviation and

> primary sector development. It may even be that an entirely different structure than those recommended above will evolve from the pilot framework to achieve the same goals.

The scheme should adopt compatible ideas from the Bangladeshi Grameen Bank since they have compatible goals, and they are addressing the same issues. The Grammen Bank has set guidelines of activities and code of conduct for borrowers. It also offers the borrowers organizational support towards the efficient and productive use of their funds.[42] Within a decade of its establishment, it was able to service the fund and technical support needs of half of the rural Bangladesh. It gives general loans to individuals, which must be repaid within one year. It also gives group loans for joint enterprises. It has expanded its activities to technology loans, short- term loans to family members, as well as longer- term housing loans[43]. The credit it gives to its borrowers enables them to generate income, attain better living standard, and build self- esteem. It has a decentralized management structure that curtails bureaucracy. Its staff members are well trained in its organizational goals and operational procedure. They earn competitive pays and incentives.[44] The Grameen Bank receives economic subsidy of inexpensive funds and grants from donor agencies. The subsidy facilitates her operations.[45]

Since the savings schemes operate at the community level, the suggestions above need not constitute matters for the Investment and Securities Act. They could be matters of Local Government laws. The Federal Government should make it a state policy that the States and Local Governments should implement. However, the federal budget should fund them through grants of inexpensive funds. As they get organized, they also may get grants from donor agencies until they become totally self-funding.

---

[42] *Id., at* xi.

[43] *Id.,at xi-xii.*

[44] *Id.*

[45] *Id.*

Co-operative Societies

There hardly is any informal sector business venture that is not susceptible to co-operative effort. Co-operative societies in Nigeria easily fall into Producer, Consumer and Financing Co-operatives.[46] Whichever form they take, they are registered as limited liability companies in which the members have shares. The shares are moneys contributed by the members according to their financial resources.

In a Financing Co-operative, members may borrow double, triple or multiples of their shares in the co-operative as the rules may permit. The loan is secured with the members' shares and their continued savings with the co-operative as well as those of other members who are sufficiently in money with the co-operative. The co-operative also may buy in its name tools and equipment, then let such to a needing member who pays the price in installments, with an option to purchase the subject-matter of the transaction once the member fully pays up.[47]

While the most prominent financing co-operative is the Thrift and Credit society, Consumer societies include marketing and supply societies who supply goods and services to their members at reasonable, usually wholesale prices.[48]

Co-operative societies are managed democratically by the members. Every member has one vote in decision-making. They do not deal with outsiders to make profit but are managed solely for the benefit of members.

Farmers' Co-operative

The farmer's cooperative is another source of finance that the law could harness to the development of the primary sector. This co-

---

[46] Julius O. Onah, *Towards the Most Desirable Organisational Structures for Cooperatives*, *in* M.O. IJERE ed., NEW TRENDS IN AFRICAN COOPERATIVES: THE NIGERIAN EXPERIENCE (Enugu: Nigeria, Fourth Dimension Publishers 1975) p.130.

[47] The author draws such agreement at the instance of co-operative societies. A motorbike was the subject matter of the agreement he perfected recently.

[48] See Onah, *supra.*, p.131.

operative in which this writer participated as a schoolboy, is known as "Owe" among the Yoruba people of Nigeria.

Under the Owe scheme, farmers in a community, or sections of it form a group that works on each other's farm in rotational pattern. By so doing, they meet their manpower needs, as well as subsidize the financial capital each of them needs for expansion. The tradition is that the farm owner feeds them for the duration of their labour. They earn no pay, but derive mutual benefits from the arrangement.

Although, the Owe scheme reduces labour cost, it does not provide the technological backup and scientific needs for mechanization and expanded production. The legal system has to recognize this age -old practice and promote it. It may fit it into the framework for community savings above, or make a similar one for this purpose. Whatever arrangement is initiated should provide technological support like tractors, ploughs, and other farming equipment that the operators of the scheme may lease or hire at subsidized rate. Research advisory services also should be provided through government extension farming experts. As they mechanize their farming, they could source funds from the People's Bank. The non- interest banking also could be source of finance for this sector as will be discussed in the later part of this article.

Traders' Co-operative

Traders' Cooperative is another means of financing the primary sector. This is a scheme initiated by a group of traders who deal in the same goods or commodities. They pool their resources through any of the community savings schemes to buy goods in bulk, and distribute the goods to the members according to the size of each member's market. Every member may take goods on credit, that is, beyond his contribution. As she sells the goods, she makes periodic payments to the pool, and takes more goods. This is possible because the group pledges the guarantee of the wealthy members of the group to manufacturers to get the goods. As the group establishes its own creditworthiness, it pledges its own guarantee. The group leaders usually have been in the trade successfully for a considerable time. The members usually would have received training from the leaders until they were certified fit for independent trading. So long as they benefit from the scheme, they are articled to their former trainer who monitors them, and may be required to guarantee the fulfillment of their obligation to the co-operative.

The Traders' Co-operative has been a successful source of finance, particularly, among the traders of the eastern Nigeria who dominate goods importation and trade. The highly successful ones have entered into manufacturing of some of the goods they used to import. The activities of such co-operatives need to be promoted through more access to funds, particularly to those in infancy. The instrumentality of the NARDB would be of immense benefit for the groups.

Another source of finance for Trader's Co-operative is the non-interest banking scheme. The lender who would rather participate in the profit of the venture, instead of charging interest should find Trader's Co-operative suitable.

Non-interest Banking

Non-interest banking is another source of primary sector financing. This type of banking has its origin in Islam and Christianity. The operators got their injunction from the Al-Quran and the Holy Bible that encourage lending without collecting usury.[49]

Under the non-interest banking scheme, the lender lends the borrower money on agreed terms which do not include collateral and payment of interests. However, the loan may not be invested in commercial ventures of which the lender does not approve, for example alcohol brewing. In addition, the lender may wish to take a liberal percentage of the investment yield. The loan usually is repayable on liberal terms agreed by the parties.

The first formal non-interest banking scheme, introduced by the Habib Nigeria Bank Limited was approved by the Central Bank of Nigeria about in March 1999. It began operations in October, and has branches in Ikoyi, Lagos, Gusau, Fagge, Kano, Sokoto, Kaduna,and the federal capital territory of Abuja. The details of its

---

[49] See HOLY BIBLE, Psalm 15:5

operations are uncertain, but considering its concept, it should serve the needs of the primary sector.

Loans from relatives and friends

A good number of projects and businesses are financed through borrowing from relatives and friends who are wealthy enough to give interest free or soft loans. Fund seekers usually would be constrained into seeking funds these sources because of high interest rates and lack of collateral guarantee. Because of the level of poverty, these sources may be limited. The available ones also would be overtaxed. As it is said by the Yoruba people of Nigeria, "six needy persons around one rich person make seven poor persons." In all probability, the sources grow leaner as the local currency depreciates, and the cost of living rises. Borrower may need to look elsewhere.

Moneylenders

Professional moneylenders lend people money, usually at very high rates and on other stiff terms. They lend their own funds, usually, but not always on short-term basis. They provide funds quickly without imposing much transaction cost. They operate locally, and their clientele are persons with whom they have personal relationships.[50]These lenders are said to be significant sources of funds in Asia.[51] They operate too in Nigeria. In the western part, they are called "*Olowo-ele*", depicting the very high interest rate they charge. Usually, only those who are desperate for funds patronize them. They are not suitable to primary sector development.

[50] Dale W. Adams, *supra.* at 31.
[51] *Id.*

Conclusion

Informal sector development is important to poverty alleviation, the overall economic growth as well as the development of all developing countries, including Nigeria. However, because commercial banks and development finance institutions grant loans on the strength of asset ownership as well as the repayment ability of the borrower, most informal sector operators are unable to secure the formal sector finance, not being able to provide collateral guarantee.

This article has attempted to identify alternative sources informal sector finance within and outside Nigeria. Most of these arrangements are community savings and advances schemes that have been operated successfully within the means available to them. Others are co-operative schemes with features of community savings schemes. Their relational character, high level and inexpensive information network, peer-monitoring devices, blockage of defaulters from access to further credit and the attendant social stigma of default encourage high rate of repayment and success of the schemes. The loans that could be procured from these sources are affordable and suited to the needs of the informal sector operators. Thus, it is essential to design a legal framework that accommodates and promotes these goals and aspiration. Such a system must not promote a model that is incompatible to the peculiar situation of the people. Rather, it should begin with the system designed and operated by the people and improve on it.

To the extent that the Grameen Bank approach adopted largely by the People's Bank of Nigeria is compatible to the goal of poverty alleviation, and jump-starting of the economy, it should guide the policymakers and lawmakers. The legal framework that will emerge must be such that will involve the people in the operation of the scheme. It must encourage the people to save money, make credit available to them, provide technical support, and be managed by personnel that is trained in the concept and operation of the scheme as well as conversant with the needs to be met. The scheme should be located in the locality it is meant to serve. It should fall within the jurisdiction of the Local government, and backed by Federal and State funding, as well as technical support.

A framework similar to that of the People's Bank but encompassing traditional financing arrangements ought to be introduced in order to accept group and individual deposits, give loans and advances to the fund users and to monitor repayment. Group lending, coupled with group or peer obligation to monitor the members should be encouraged. The NARDB should train these groups to facilitate their operation.

Because the group members, especially the leaders have adequate information about the members, reporting and disclosure obligation should be on them. Further access to credit should be determined according to the group's repayment assessment.

The non- interest bank also could finance this sector to the extent that the lender's participation in the profit of the venture is not an indirect way of charging interests comparable to commercial and formal financing sector interest rates.

The regulations that govern the scheme should be efficacious so long as most of them agree with the existing practice and expectations of the people. The scheme should be subject to self-appraisal and self-adjustment as it progresses.

Since poverty alleviation should be of priority, particularly in developing countries, those countries should benefit immensely from the model proposed for Nigeria. In addition, they should look inwards to encourage and refine existing but similar financing systems.