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An Appraisal of the Interface between Human Rights and National Security in Nigeria

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Abstract

This paper appraises the interface between human rights and national security, both of which are interconnected, as the interest of one affects the other. The paper notes that human rights are God-given and, thus, inalienable. To the extent that they are recognised by, and enshrined in the Constitution of the Federal Republic of Nigeria, 1999, as amended, they are fundamental and a breach thereof entitles an aggrieved person to institute an action in a court of law for redress. But the Courts have held that where national security and the rule of law mix, the individual right of a citizen must give way to national security. This paper analyses the key terms of the topic, undertakes a historical development of human rights, x-rays the fate of human rights viz-a-viz the security challenges in Nigeria, draws conclusions and makes recommendations. The paper employs the doctrinal research methodology.

Keywords: Human Rights, Interface, National Security

1. Introduction

There exists an inextricable nexus between human rights and national security. Human rights are those rights or entitlements that human beings enjoy by virtue of the fact that they are human. These rights are God-given and inalienable. The Constitution of the Federal Republic of Nigeria, 1999, as amended, makes provisions for fundamental rights.[1] These rights include the right to life, the right to the dignity of the human person, the right to freedom from discrimination, amongst a host of others. Any person who suspects that any of these rights have been, or are being or have been violated in relation to him or her can approach the Court for redress.[2] The same Constitution has also empowered the National Assembly to make laws for the order, security and good governance of Nigeria.[3] Thus, national security becomes imperative. However, there has always been imbalance in handling issues relating to human rights and national security. Often times, human rights are violated in situations where national security becomes paramount. Security officers are often involved in the violation of human rights, especially where national security is involved. This work generally seeks to analyse the interconnection between the two concepts and also sues for balance between them.

2. Definition of Key Terms

i. Human Rights:

To Cranston,[4] human rights are collectively viewed as "something of which no one may be deprived without a great affront to justice." He adds that "There are certain deeds which should

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[1] Section 33-44 of the Constitution of the Federal Republic of Nigeria, 1999, as amended.

[2] Section 45, ibid.

[3] Section 6 (6) of the Constitution of the Federal Republic of Nigeria, 1999, as amended.

[4] The above views of Cranston were cited in MUO Gasiokwu, *Human Rights: History, Ideology and Law*(Mono Expressions Ltd 2001) 1.

never be done, certain freedoms which should never be invaded, some things which are suppressively sacred."[5]

From the above definition, it is obvious that there are a plethora rights known as human rights. However, these rights will only crystalise into being fundamental rights if they are recognised by, and enshrined in the Constitution. The Constitution of the Federal Republic of Nigeria, 1999, as amended from section 33 to 44 makes provision for fundamental rights.

ii. National Security:

National security connotes a wide range of issues. That is why 'national security, state security, national interest, or public interest'[6]etc., are often used in relation to national security. Onuoha defines national security as 'the capacity of a state to promote the pursuit and realisation of the fundamental needs and vital interests of man and society and to protect them from threats which may be economic, social, environmental, political, military or epidemiological.[7] Flowing from above, therefore, national security includes social, economic, cultural, technological and political consideration. Obasanjo[8] notes that the central focus of Nigeria's national security policy shall be to 'strengthen the Federal Republic of Nigeria, to advance her interests and objectives, to contain instability, control crime, eliminate corruption, enhance genuine development, progress and growth, and improve the wellbeing and quality of life of every citizen'.

3. Historical Development of Human Rights in Nigeria

The origin of human rights in Nigeria is traceable to the recommendations of the Sir Henry Willink's Commission on the Rights of Minorities and, concomitantly, the provisions of the 1960 Independence Constitution[9]. However, that is not to say or suggest that before this arrangement, the idea of human rights never existed in Nigeria. Thus, even traditional settings admit of early manifestations of human rights. During the colonial period, there were serious agitations for human rights.[10] However, despite these agitations as demonstrated in the pre-independence constitutions fashioned out by the colonial administration, none of these provided directly for the recognition and protection of the civil rights and liberties of the people governed. This was not going to be possible as slavery, forced labour, racial discrimination and restriction of movement, expression and association were legitimate instruments in the hands of the colonial masters, thereby affecting human rights[11].

The Willink's Commission made recommendations on some rights, which were later included in Chapter III of the 1960 Constitution.[12]These included the right to life[13]; freedom from inhuman

[5] Ibid.

[6]B O Agu, 'Economic Crimes and National Security' in E Azinge, and F Bello, ed., *Law and Security in Nigeria* (Nigerian Institute of Advanced Legal Studies, 2011) 387.

[7]F C Onuoha, 'The Transformation of Conflict in the Niger Delta' in H A Taiwo, I O Seniyi, R A Salawu and A Usman eds., *Nigeria Beyond 2007: Issues, Perspectives and challenges* (Faculty of Business and Social Sciences, University of Illorin 2008) 265, cited in Azinge, and Bello, ibid.

[8]O Obasanjo, *The Grand Strategy for National Security* (Federal Government Press, 2001) 1-3.

[9] Hereinafter referred to as the 1960 Constitution

[10] For instance, the 1861 cession of Lagos to the British Crown and the acquisition of Sokoto Emirate by conquest were all met with some level of resistance by those who perceived that these events were against the rights of the indigenous people.

[11]M AAjomo, 'The Development of Individual Rights in Nigeria's Constitutional History' in M A Ajomo, &B Owasanoye, (eds) Individual Rights under the 1989 Constitution (NIALS 1993) 4.

[12] Consisting of sections 17 – 32 and titled "Fundamental Rights".

[13] Section 17 of the 1960 Constitution

treatment[14]; freedom from slavery and forced labour[15]; freedom from deprivation of personal liberty[16]; rights to determination of rights[17]; private and family life[18]; conscience[19]; expression[20]; peaceful assembly and association[21]; movement[22], etc. Thereafter, Nigeria attained a republican status on October 1, 1963. Like the 1960 Independence Constitution, the Republican Constitution of 1963[23], also in Chapter III[24], made provisions for the recognition and protection of basic rights of the citizens. What is worthy of note is the fact that both the 1960 and 1963 Constitutions only made provisions for first generation rights that are of civil and political character. There is no reference, direct or indirect, to economic, social and cultural rights which form the fulcrum of second-generation rights, unlike subsequent constitutions[25]. Interestingly, at the time when these Constitutions were being fashioned out, the international community was actively engaged in the progressive development of this neglected genre of rights[26].

According to Aduba, under the 1979 Constitution it was observed that Nigeria reaffirmed positively and more forcefully its faith in and commitment to a comprehensive and enforceable body of human rights. The drafting of the provisions was more precise and neater when compared with the 1963 provisions.[27]He adds that "[w]hilst the rights guaranteed in the 1963 Constitution were defined in negative language, in the 1979 Constitution they were positively defined"[28]. Thus, "[t]he omnibus and imprecise provisions which qualified most of the rights guaranteed in the 1963 Constitution applied only to a few of the rights guaranteed by the 1979 Constitution"[29], with few permissible circumstances under which the state can derogate.

The 1999 Constitution, as amended, which is the operative constitution of the nation at the moment, has been acclaimed to retain substantially the provisions of the 1979 Constitution relating to the subject matter of fundamental rights. According to Aduba, "[t]he only innovation was the inclusion of a provision dealing with the right to acquire and own immovable property anywhere in Nigeria"[30]. Apart from that, all other rights are merely a reproduction of the rights enshrined in the 1979 Constitution, albeit under different sections.

Between the 1979 and 1999 Constitutions, there were the 1989 Constitution and 1995 Draft Constitution which, though contained revolutionary provisions on the subject matter under

[14] Section 18, ibid.
[15] Section 19, ibid.
[16] Section 20, ibid.
[17] Section 21, ibid.
[18] Section 22, ibid.
[19] Section 23, ibid.
[20] Section 24, ibid.
[21] Section 25, ibid.
[22] Section 26, ibid.
[23] Hereinafter called the 1963 Constitution
[24] Entitled "Fundamental Rights", these were contained in the said 1963 Constitution.
[25] Infra
[26] See O Eze, Human Rights in Africa (NIIA 1984)
[27] J N Aduba, 'Inquiries on Human Rights Practice in Nigeria: Past, Present and the Future', being the text of an Inaugural Lecture in the Unijos Inaugural Lecture Series 54 delivered on Friday, June 29, 2012 at the Multi-Purpose Hall, University of Jos, Jos.
[28] Ibid.
[29] Ibid.
[30] Aduba, (n 27).

review[31], did not become operative. Notwithstanding that, both the 1979 and 1999 Constitutions are remarkable in that they introduced a Chapter on Fundamental Obligations and Directive Principles of State Policy, which form the bedrock of ESC rights. Unfortunately, however, under both Constitutions, Chapter II is rendered non-justiciable, based on reasons advanced by the Constitution Drafting Committee (CDC) that drafted the 1979 Constitution, the precursor to the 1999 Constitution.[32] The non-justiciability debate in Nigeria has had the benefit of very rich and interesting opinions[33].

4. Constraints to the Realisation of Human Rights in Nigeria

In the over fifty years of Nigeria's existence as an independent entity, the practice of human rights has been hampered by so many constraints. This section of the paper examines a number of these constraints.

i. Poverty

The effect of poverty on the attainment of fundamental rights is very pervasive. On this, Aguda remarked that:

> *The practical actualization of most of the fundamental rights cannot be achieved in a country like ours where millions are living below starvation level… In the circumstances of this nature, fundamental rights provisions enshrined in the Constitution are nothing but meaningless jargon to all those of our people living below or just at starvation level.*[34]

Justice Bhagwatti of the Indian Supreme Court had this to say on the issue:

> *…the large majority of people who are living in almost subhuman existence in conditions of abject poverty and for whom life is one long unbroken story of want and destitution, notions of individual freedom and liberty, though representing some of the most cherished values of a free society would sound as empty words bandied about in the drawing room of the rich and well-to-do and the only solution for making these rights meaningful to them is to remake the material conditions and usher in a new social order where socio-economic justice will inform all*

[31] For example, the 1989 Constitution expanded the scope of the protection afforded to the right to personal liberty (s34(8)); made provision for the handling of juveniles accused of any crime; made copious reference to non-discrimination; assumption of more obligations by the state towards indigent citizens, etc. under the 1995 Draft, the rights to medical consultation (s43), primary education (s 45), eradicate corrupt practices (s 35) were all ensured. See Aduba, ibid.

[32] The CDC had justified the "banishment" of these obligations to the realm of non-justiciable rights in the following words: "all fundamental rights are, in the final analysis rights which impose limitations on the executive, legislative or judicial powers of the government and are accordingly easily justiciable. By contrast, economic and social 'rights' are different. They do not impose any limitations on governmental powers. They impose obligations of a kind which are not justiciable. To insist that the right to freedom of expression is the same kind of right as the 'right' to free medical facilities and can be treated alike in a constitutional document is…basically unsound".

[33] See, for instance, P O Idornigie, 'Corruption and the Justiciability Question: Where Does the Money Go?' in E Azinge, & B Owasanoye, (eds.) 'Justiciability and Constitutionalism: An Economic Analysis of Law' (NIALS 2010) 191-244; E Alemika, 'The Non-Justiciability of Chapter II of the 1999 Constitution: Implication for Development in Nigeria'*BIU Law Journal (*1) (1) (2011) 353-381; and CJD Dakas, 'A Panoramic Survey of the Jurisprudence of Indian and Nigerian Courts on the Justiciability of Fundamental Objectives and Directive Principles of State Policy' in E Azinge, & BOwasanoye, (eds.) 'Justiciability and Constitutionalism: An Economic Analysis of Law' (NIALS 2010) 262-323.

[34] A Aguda, 'Judicial Process and Stability in the Third Republic,'*National Concord*, November 7, 1988.

> *institutions of public life so that the preconditions of fundamental liberties of all may be secured…*[35].

From the above views, it is evident that poverty imposes heavy constraints on the enjoyment of human rights by the citizenry. Most people who are poor tend to either resign to fate or resort to other extra-legal means to secure such rights in the event of any violation.

ii. Illiteracy

Like poverty, illiteracy seriously militates against the effective enjoyment of fundamental rights by the citizens. Consequently, the virtues of freedom of expression and the press which have been celebrated by many people as the cornerstone of democracy have remained largely cosmetic for majority of Nigerians who are illiterate and cannot comprehend the import of the constitutional prescription for these rights. Yet, as Nwabueze rightly observed, free speech and the press are means by which the society as a collection of individuals can participate in the government given the impossibility of government by all members of a modern complex society.[36] These are instruments of self-government by the people because they enable the people to be informed and educated about the affairs of government, and also enabling them to express intelligent opinions on such matters[37].

As Aduba has noted, free speech and the press enable corruption, abuse of office and indeed other wrongdoing to be exposed by the public.[38]

iii. Lack of Sufficient Legal Aid

In a legal system like ours where the adversarial method of litigation reigns supreme, the need for sufficient legal aid to victims of human rights violations cannot be over-emphasised. This is more particularly so in the case of those who are poor. Thus, the plight of the unrepresented defendant has been graphically described by Justice Sutherland (as he then was) in the American case of *Powell v Alabama*[39]thus:

> *Even the intelligent and educated layman has small and sometimes no skill in that science of law. If charged with crime he is incapable of determining for himself whether the indictment is good or bad. He is unfamiliar with the rules of evidence. Left without the aid of counsel he may be put to trial without a proper charge and convicted upon incompetent evidence or evidence irrelevant to the issue or otherwise inadmissible. He lacks both skill and knowledge adequately to prepare his defence even though he had a perfect one. He requires the guiding hand of a counsel at every step in the proceedings against him. Without it though he be not guilty, he faces the danger of conviction because he does not know how to establish his innocence. If that be true of men of intelligence, how much more is it of the ignorant and illiterate or those of feeble intellect…*[40]

[35] Aguda (n 34)..
[36]B O Nwabueze, *The Presidential Constitution of Nigeria* (Nwamife Publishers, 1982), p 457.
[37] Ibid
[38] Aduba (n 27).
[39] 278 US 45 1932
[40] *Powell v Alabama* (n 39).

iv. Lack of Basic Infrastructure

The absence of infrastructural facilities like good roads, water and other social amenities renders the enjoyment of human rights very difficult. Aduba notes that the "[a]bundance of guinea-worm infested water, absence of electricity and basic health care delivery system reduces the life span of majority of Nigerians and consequently affects their right to life"[41]. There is also an extent to which the right to freedom of movement is hampered by the absence of good roads.

v. Unemployment

In Nigeria, the statistics of unemployment is very high. Many of the teeming youth of the country who graduate from our institutions of learning are simply left to roam the streets of our towns and cities in search of jobs that do not even exist. The Government of Nigeria has done very little to create new jobs for the people. As a result, the dignity of the human person is not enhanced where able-bodied citizens are not certain about the way to earn a livelihood. This is akin to torture. No wonder, Aguda captured the situation more aptly thus:

> *Can we imagine a greater for an able-bodied man or woman than to wake up in the morning and not have the smallest clues as to how or where he or she is going to find a meal to eat the whole of that day not to talk of the day after? I take it as most inhuman and degrading for an able-bodied man or woman willing and able to work to find himself a victim of unabated and frustrating prolonged unemployment.....'*

vi. Lack of Physical Security

The Nigerian State has been beset by many security challenges. These range from ethno-religious conflicts[42], armed robbery and stealing to resource control and terrorism. The latest, of course, is the threat posed by the terrorist-cum-insurgent group called the *Boko Haram.*

These incidents have constituted a threat to the enjoyment of fundamental rights by well-meaning Nigerians. In this regard, several lives have been lost, properties damaged and others have had to flee their homes for safety. This has in turn generated enormous humanitarian crises for the nation. It is even perplexing that this carnage is perpetrated while we have security agencies that are supposed to protect the lives and property of the citizens.

vii. Attitude of State Functionaries

Some state functionaries like the police, the military, officers of the Nigeria Customs and other security agents, and indeed some civilian functionaries, do often engage in acts that are capable of limiting or outrightly denying the rights of citizens. As the subsequent part of this Chapter would show, this country has recorded a million and one cases of illegal arrest and detention, torture of persons, rape of women and girls and deprivation of life, all in circumstances that are never excusable. What is even more appalling is the impunity with which these dastardly acts are committed.

viii. Cultural Restraints

In Nigeria, a number of cultural practices inhibit access to and enjoyment of fundamental rights. Yet, culture as a way of life is difficult to change. Some of these practices include discrimination against women regarding the right to inherit; the levirate system (i.e. a system where the wife of a

[41] Aduba (n 27).
[42] As witnessed in Kaduna, Plateau, Benue, Nasarawa, Taraba, etc.

deceased person is merely "inherited" by a relative of the deceased); women circumcision; *purdah*, etc.

5. Security Challenges and the Fate of Human Rights in Nigeria

i. Ethno-Religious Conflicts

Elsewhere, it has been argued that Nigeria, being a complex federation consisting of numerous ethnic groupings "*is confronted with internal divisions and problems which are so serious as to jeopardize her capacity to survive*" [43] .He added that "*Religious differences between the predominantly Muslim North and the Christian South…have created a pattern of feuling and an unending circle of violence in Nigeria*"[44].

ii. Politics-Based Violence

It is indisputable that politics in the current civil dispensation, as was the case in the past, is characterised by anxiety which hardly makes room for negotiation and genuine consensus. There are therefore intense power tussles between and amongst members of the political class, with the masses paying the ultimate price.

In the recent past, for instance, the country has witnessed both intra-party and inter-party wrangling of unimaginable magnitude. Politicians deploy huge resources to outdo one another, changing the rules of the game with impunity. The electioneering process is riddled with irregularities and violence, leading in many instances to loss of lives and the destruction of valuable property. Again Innocent and Onyishi quote Onyemaizu on this point, thus:

> *A resort to violence, including armed militancy, assassination, kidnap, et cetera, have somewhat suddenly become attractive to certain individuals in seeking to resolve issues that could have ordinarily been settled through due process. The end products of such misadventures have often been catastrophic. They include the decimation of innocent lives, disruption of economic activities, and destruction of properties among others.*[45]

vi. Organised Violent Groups and Insurgents

Organised violent groups take different forms in the country. These range from ethnic militias and vigilantes to secret cults in tertiary institutions. There are others that are driven by political and religious ideologies to unleash violence on the government and its people. The latter are often regarded as terrorists[46]. Of particular note in this connection is the *Boko Haram*[47]group which is a militant Islamic sect which began to rear its ugly head some time in 2009. The major thrust of their activities, writes Omede, "included carrying out sporadic attacks on police stations"[48], worship places, markets, public buildings and such other similar locations. At present, the activities of the *Boko Haram* sect have so far resulted in the death of not less than ten thousand people, in addition to the destruction of valuable properties and the creation of mass dislocation in the economy.

6. The Impact of National Security Strategies on Human Rights

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[43] A JOmede, 'Nigeria: Analysing the Security Challenges of the Goodluck Jonathan Administration',(2011) 7 (5)*Canadian Social Science*, 90-102

[44] Ibid.

[45]COnyemaizu ,'In the Maze of Violence'(2006) 9 (22) *TheSource*, 10-21

[46] There is at the moment lack of consensus as to the meaning of the term "terrorism", despite several attempts at defining the concept.

[47] Roughly translates as "western education is an abomination".

[48] Ibid.

It must be pointed out at the very outset that human rights are not absolutely indefeasible. Indeed, it would be absurd if they were so. Their enjoyment is consequently often made subject to such restrictions as are reasonably justified in a democratic society, in the interest of national security, public order, public health or morality and the safety of others.

i. The Right to Life

Section 33 of the Nigerian Constitution proclaims that every person has the right to life and that no one should be deprived intentionally of his life save in the execution of the sentence of a court in respect of a criminal offence in which that person has been found guilty. In international law, the right to life is given special significance because all other rights are rendered meaningless in its absence.[49] Accordingly, "international human rights provisions relating to the right to life must be strictly construed"[50]. It has been added in the specific context of the lethal use of force by state agents that:

> *The right to life, therefore, clearly imposes a negative obligation on the state to refrain from taking life. Any death caused by an agent of the state using beyond that which is absolutely necessary… will amount to a violation of the right to life and will be unlawful.*[51]

Despite the protection of the sanctity of human life by national, regional and international instruments, reports indicate that extra-judicial, summary and arbitrary executions by the police and other law enforcement agencies are still prevalent in Nigeria.[52]

ii. Torture, Inhuman and Degrading Punishment or Treatment

The prohibition of torture is treated as a pre-emptory norm of international law (i.e. *iuscogens*) and is a non-derogable right. Despite the provisions of the above-mentioned human rights instruments, in addition to the various institutional mechanisms set up to ensure compliance with the prohibition of torture, inhuman and degrading treatment or punishment[53], the Nigerian police and other law enforcement agencies are alleged to commit the act of torture with impunity[54]. These acts of impunity are often committed in the bid to either effect arrest or extract confessional statements from accused persons.[55]

ii. Criminal Punishment of the Freedom of Expression and the Press

From the colonial period down to the post-independence era, there were numerous judicial decisions in which the law relating to seditious publications was employed to curtail the freedom

[49] See, for instance, articles 4 and 6 of the African Charter and the ICCPR respectively. See also Cooper, J., Countering Terrorism, Protecting Human Rights: A Manual (Warsaw: OSCE/ODIHR, 2007) at p. 98

[50] See Cooper, ibid.

[51] Ibid. The decision of the Human Rights Committee of the ICCPR in the case of *Guerrero v Colombia*, Communication No. 45/1979, doc. CCPR/C/D/45/1979, 31 March 1982 is very instructive. There, the Committee found that the excessive use of lethal force by the Colombian police resulting in the death of about seven people, who were not proven to have been connected with any suspected offence, was illegal.

[52] 'The State of Human Rights in Nigeria: 2005-2006' being a Report on Human Rights Violations Monitored in Nigeria by Network of Human Rights Violations Monitors in Collaboration with the National Human Rights Commission, UNDP and NORAD.

[53] See the Committee on the Prevention of Torture of the ICCPR, the UN Sub-Committee on the Prevention of Torture, the International Committee of the Red Cross, the UN Special Rapporture on Torture and the International Criminal Court, amongst others, as examples

[54] 'The State of Human Rights in Nigeria: 2005-2006', supra.

[55] Ibid.

of speech and the press. Thus, in *Rex v Agwuna*[56], the appellants were tried and convicted because part of a lecture delivered by one of them urged the audience to rise against "the enemy imperialist"[57]. In *The African Press v. The Queen*[58], an article warned the public to be aware of the administrative officers. It was held that the article was designed to whip up hostile feelings against the administrative officers and consequently seditious. In *Queen v The African Press and L. K. Jakande*[59], the defendants were convicted for publishing a story which accused police officers of abetting lawlessness and being timid and of partiality. The court held that the method adopted by the newspaper was not only seditious but was an example of gross and dangerous irresponsibility which must be checked. See also *Ogidi v COP*[60]where an accusation that customary courts of a division were creatures of a political party was held to be seditious.

In a similar manner, officer of the SSS on the 10th of March, 2006 stormed the house of one Adamu Sambo, a publisher, in Kaduna where they seized 3000 copies of a book titled *Obasanjo: The Lust for Power and its Tragic Implications for Nigeria*by Sadiq Abubakar of Ahmadu Bello University Zaria. The publisher's office was sealed and he himself was arrested and detained for a day before he was released.[61]

v. Right to Peaceful Assembly and Freedom Association

Like in the case of freedom of expression and the press, there are also conflicts between national security and the freedom of association and the right to organise. Yet, the centrality of the right to organise is at the root of the state itself[62]. This explains why, on the international plane, the International Labour Organization (ILO) adopted Conventions 87 and 98 both of which govern the right of workers to organise and bargain. Similarly, the Nigerian Constitution[63], the African Charter[64] and the ICCPR[65] all make provisions on these rights. Indeed, the right to associate or organise remains a potent tool in the hands of the dominated class against the oppression of the dominant class.[66] This is more so that association tends to increase the potency and danger of advocacy as it also assists in spreading dissent and discontent in society[67].

Gamaliel had observed, over fifteen years ago, that freedom of association, especially as it relates to its conflicts with national security is yet to receive judicial attention in Nigeria.[68] The position has remained largely the same ever since. That notwithstanding, dictatorial regimes, whether civilian or military, have always enacted draconian laws and employed crude and brute force to demobilize and even decimate or suppress all forms of oppositional advocacy and association. Therefore, law enforcement agents, cashing in on the slightest disorder, usually open fire on groups under the pretext of unlawful assembly. This had been the approach of the military during that era.

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[56] (1949) 12 WACA 456
[57] Ibid, at pp. 458-459 of the report
[58] (1952) 14 WACA 57
[59] (1957) WNLR 1
[60] (1960) 5 FSC 251
[61] Ibid.
[62] Gamaliel, LL.M Thesis, op. cit. at p. 75
[63] Sections 40 and 41 CFRN 1999, as amended
[64] Article 11 and 12 of the African Charter on Human and Peoples' Rights
[65] Article 21 ICCPR
[66]I G Shivji, *The Concept of Human Rights in Africa* (Codesria Book Series, 1989), pp. 43- 109, in Gamaliel, ibid.
[67] Gamaliel, ibid.
[68] Ibid., at p. 77

7. Human Rights Violations as Causes of Insecurity in Nigeria

The immediately preceding segment of this work examined the way and manner the civil rights and liberties of the citizenry are often breached by law enforcement agents under the guise of protecting national security or maintaining law and order. The persistent and continuous denial or violation of human rights is itself a major cause of insecurity in Nigeria.

It is not in doubt that social, economic and cultural rights strike at the root of human existence in any given society. This is because these rights seek to leverage the status of the common person and to make them attain the minimum state of physical and mental well-being. Thus, the place of rights like food, shelter (housing), healthcare, education, employment, safe and healthy environment, etc., cannot be over-emphasised. Unfortunately, and as our previous discussion on the justiciability debate revealed[69], these social, economic and cultural (ESC) rights have not received adequate attention from the Nigerian State. Instead premium is laid on civil and political rights, with the result that while the latter are justiciable the former are not[70]. As a result, over the years, the Nigerian State has paid only lip service to the realisation of the ESC rights.

For instance, there is no gainsaying the fact that about 60 per cent, if not more, of Nigerians are living in conditions of poverty. For many of these, three-square meal is a luxury. This incapacitates them and greatly impairs their capacity to access other basic rights. In the area of housing or shelter, the story is no different. Many Nigerians live in places that are unsuitable for modern-day piggery or poultry. In urban centres like Lagos, Port Harcourt, Kano and Abuja, people are known to sleep under the bridges or in old abandoned vehicles.

The picture of unemployment in this country is alarming as well. Year after year, our training institutions graduate a huge number of job seekers into the labour market to search for jobs that are, to say the least, non-existent. Despite the mantra of economic empowerment bandied about in government quarters, a critical survey of the labour market will reveal that only few jobs are created for the teeming youths of the nation.

In the aspect of healthcare delivery, there is nothing impressive to write home about. People die of simple preventable and curable diseases, like guinea worm, malaria, typhoid fever, cholera, polio and others. Maternal and infant mortality is very high. Our medical and health institutions are poorly equipped. The corollary of this is that the rich now fly overseas for minor medical conditions, leaving the poor person to simply either die or survive, whichever happens first.

Education in Nigeria is in shambles. Public educational institutions or schools now make mockery of the entire country. Due to gross under funding, public schools lack basic facilities that aid learning while teachers are perpetually on strike for one demand or another. The future of education looks very bleak. Private entrepreneurs, cashing in on this lacuna and motivated by the desire for profits, have stepped in to provide, in some cases, sub-standard education at exorbitant costs. Again, the poor man is priced out of school!

To crown it all, corruption in high and low places has exacerbated the entire situation. Merit has since lost its place in the scheme of things. Mediocrity reigns supreme. The political class grows

[69] See Chapter Two, supra

[70] Compare, once again, the provisions of Chapters II and IV of the Nigerian Constitution in the light of section 6(6)(c) thereof.

richer by the day while the peasants become even poorer. To get anything in Nigeria, one needs to know someone who knows someone who has the thing!

In an environment where all these take place, the tendency for people, particularly the poor, to become dissatisfied is high, and the tendency for such dissatisfaction to lead to crime is higher. This is the prism from which some of the current security challenges in Nigeria can be conceptualized. Although not all, but most violent crimes in Nigeria are a direct or indirect result of one form of deprivation or another. With the exception of a few, those who commit armed robbery would not ordinarily do so if they were gainfully employed or empowered. Similarly, the restiveness in the oil-rich Niger Delta was borne out years of environmental degradation and material neglect of the Deltans. Even in the context of the Boko Haram insurgency, one is tempted to conclude, notwithstanding the religious colouration that has been ascribed to it, that its cause and solution may very well be a function of the economic and material conditions of the Nigerian State.

8. Conclusion and Recommendations

The work has done justice to the concepts of human rights and national security, as well as the historical development of human rights in Nigeria. It has also analysed the cause, the constraints or impediments to the realisation of human rights in Nigeria. Specially, it considered factors such as illiteracy, poverty, unemployment, attitude of state functionaries, amongst others. Other vital issues handled in this paper include security challenges and the fate of human rights in Nigeria, the impact of National Security Strategies on human rights and human rights violations as causes of insecurity in Nigeria.

In the light of the above discourse, the following recommendations are crucial.

1. The security agencies, whose duty is to maintain law and order, as well as protect lives and property, must act in accordance with the provisions of the laws establishing their institutions. They should be questioned or interrogated thoroughly and, if found guilty, prosecuted each time they abuse or violate human rights of citizens.
2. The government should work assiduously to improve the living conditions of the citizenry in this era of serious economic hardship. This can only be done if Chapter II of the Constitution is expressly made justiable so that government should be obligated to do all that is expected of her to do for the wellbeing of the citizens.
3. The provisions of human rights as provided for in the Universal Declaration of Human Rights of 1945, the Convention Against Torture, the International Convention on Civil and Political Rights of 1966, the International Convention on Economic, Social and Cultural Rights of 1966, amongst others, most of which had long be assented to, ratified and domesticated in Nigeria, should be given full effect.
4. National security can only be considered above human rights in situations of extreme emergency, where it becomes inevitable for security agencies to react in order to ensure the security of the nation. In other words, there should be a balance between national security and human rights in situations where they both meet.
5. Government should ensure that corruption, which has permeated virtually all the sectors of the society, is stamped out. The effort of the Economic and Financial Crimes Commission in this regard is highly commended.