

Fledging Issues On Human Rights Protection In Nigeria

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Abstract

Since the adoption of the universal Declaration of Human Right in 1948, human rights have not only acquired global status and importance but have grown tremendously both in conception and content. The issue of human rights has become inexplicably important in promoting respect for dignity and activities in order to enhance mutual existence among men and states. Human rights are more or less the rights which nature has endowed to every human being. They are those inalienable rights which are deemed natural but the advent of positivism and constitutionalism led to divisions between fundamental and supposedly non-justiciable rights in the absence of which a chaotic world emerged. While the internalization of human rights was energized and strengthened by a number of developments, the present status of human rights in Nigeria is also without any historical antecedents. There has been some progress in this respect such as the creation of awareness, standardization, institution of public interest, removal of limitation period and liberal interpretation approved by court. However despise this progress there are still some inherent challenges and difficulties in the protection and realization of human rights in Nigeria. Some of these difficulties are jurisdictional problems between Federal High Court and State High Court with regard to the provisions of section 251 of the 1999 constitution of the Federal Republic of Nigeria, unjustifiable government influence on implementation mechanisms amongst others. These short comings prompted this study which is purely theoretical and based on doctrinal approach. This study examined both international and domestic instruments in Nigeria together with other primary and secondary sources such as case laws, text books, journal articles, statues and media publications. The paper concludes by making some recommendation that will strengthen the enforcement of human rights. There is need for the amendment of chapter ii of the constitution of the Federal Republic of Nigeria, 1999 in order to ensure that economic, social, environmental and Health rights are justiciable and in line with international best practices operational in other countries.

Introduction

The protection of human rights is guaranteed in the constitutions of several countries around the world. A fundamental tenet of human rights is that every individual has certain rights that should not be taken away from him except in conditions that are deemed reasonable and permitted by law. As a result of their humanity, human rights are those rights that the international community acknowledges as belonging to all individuals. These rights, when combined with traditional legal systems, attempt to defend the vital rights of their subjects¹. These rights are inherent rights which cannot be taken away from a person without affront to justice². On the basis of this, the Supreme Court ruled that basic rights take precedence over ordinary laws of the land, and that they are, in fact, prior to the formation of political society itself. It is a necessary precondition for living in a civilized society. The responsibility for developing, preserving, and protecting the rights of people living in a country falls on the shoulders of every society in the world. This is because, despite the fact that these rights are fundamental and inalienable, they have been subjected to some derogations and restrictions in the interests of defense, public safety, public order, morality, and other interests, as well as for the protection of other individuals. Among those who have contributed to Nigeria's legal framework, institutions, and agencies that have worked to regulate and safeguard human rights are the legislature, the judiciary, government agencies or arms of government, and law enforcement organizations. These organizations are tasked with the obligation of ensuring that human rights are fully realized. Although it appears that full fulfillment will only be possible through the creation of knowledge, comprehension, and education of the masses on their inherent rights as well as how to seek redress when these rights are violated, this appears to be the case. If you look at the country's history, you'll see that many people have had their human rights abused without any legal justification. Even though there has been a lot of progress in the field of human rights, there is no proof of that. It could be argued that some of the factors for the multifarious and multidimensional impediments which have caused continuous violations of human right in Nigeria are defective mechanism put in place or poor managements with impurity and the fact socio- economic and health rights geared toward the promotion of political and civil rights are left non-justiciable. There is urgent need to redress these impediments so as to create full realization and respect for human rights in Nigeria.

Conceptual framework

A distinction can be made between the word "right," which refers to goods or property, and the word "rights," which refers to a special, possessed benefit. The concept of a right is not inflated by the assertion of benefits that people believe to be rights. Many people make this mistake by asserting benefits that they believe are right to be right. In the assertion of so-called second-generation human rights, such as the right to economic development and prosperity, as well as third-generation human rights, such as the right to world peace and a clean environment, this has become increasingly evident³. According to the Black Law Dictionary, Right means a power, privilege, faculty or demand inherent in one person and incidents upon another.⁴ Lloyds stated that rights connotes a key Conception, contemporary political, morals and legal philosophy⁵. Rights are made often of favour for which gratitude is the sole filling response⁶.

¹S.O. Nnamani, Which Department is this?(faculty of Law, Enugu state University of Science and Technology).

²F.Falana, Fundamental Rights Enforcement in Nigeria (2nd ed., Legal Text Publishing Co.Ltd. 2010)1

³ Andrew Heard, 'Human Rights: Chimera in Sheep's Clothing?' (199) Accessed 15 February, 2019.

⁴B.A Garner, Black law dictionary(5th ed. Minnesota, West Publishing Co. 1999) 616. Conception, contemporary political, morals and legal philosophy.

⁵N. O. Obiaraeri, Human rights in Nigeria: Millennium perspective (perfect concept 2001)1.

⁶Ibid

There are two competing theories to the nature of rights, one emphasizes on will or choices, while the other centers on interest of benefit. The will theory according to Hart⁷, is subscribed by those who are of the nature that the purchase of law is to grant the widest possible means of self-expression to the individuals. This theory sees her bearer from the angle of making his choice as he deems fit. As a result, a right is considered as more than just a benefit, given that the right holder has the option of having the benefit bestowed; a right helps to defend this option. To put it another way, the holder of such a right stands to gain from the execution of the correlatives duty. He decides which of the duty bear's acts are acceptable. The interest or benefits approach, on the other hand, claims that the goal of a right is to safeguard a specific interest rather than an individual's statement. Rights are defined as benefits conferred on individuals by rules governing their relationships. A part of the benefit theory states that a right holder has a right to benefit from the performance of his day wherever he is, while another part states that a right holder can have a right regardless of whether a moral theory or a legal system imposes obligations. According to the underlying premise, persons have certain rights based on their interests, and their moral power makes any sort of infringement possible. In *Olayanv Ogurinde&Ors*,⁸ it was held that a right is an interest recognized and protected by law. In *Uwaifo v A.G. Bendel State & Ors*,⁹. The Supreme Court held that a legal right is any advantage or benefit conferred upon a person by a rule of law. In *Nwakwo&OrsV.Onuma& Anor*,¹⁰. The court stated that the word 'right' means an interest or title on an object or property¹¹. It is important also to note that one may benefit from another's duty in time having a right that benefit. For instance, Christians may believe that they have a duty to give money to charity, but that those not mean that charities have a right to Christian's money.

Human rights

There is no unanimity of views in the definition of human rights by both legal and political writers, however virtually every legal instrument regulating human conduct contains a list of rights which are supposed to be promoted, secured and promoted¹². Human rights mean different things to different people¹³. Every attempted definition of Human Rights is often blighted by the author's philosophical and ideological biases¹⁴. However, the elusiveness of the term notwithstanding, some definitions has been preferred by some jurists in that area of study. Human rights are said to represent demands or claims which individuals or groups make on the society, some of which are protected by law and have become part of the lex lata while others remain aspirations to be attained in the future¹⁵. They are those claims made by man for themselves or on behalf of other men, supported by some theory which concentrates on the humanity of man on man as human being, a member of human kind¹⁶. Human rights are said to be holistic, interdependent, and interrelated, notwithstanding that they are often classified into civil, political, economic, social and cultural rights or first generation, second generation and third generation group of rights¹⁷.

⁷O. C. Eze *Italic Democracy and laws* (Federal Ministry of Justice, 1991) 15.

⁸(1990) 1 NWLR (Pt 127) 391.

⁹(1982) 7 SC 124 @273

¹⁰(1982) 5 NWLR (pt 343) 191 @204

¹¹Ibid

¹²H. C. Alisigwe, "International Human Rights (2011/2012) Imo State University Journal of public law 323.

¹³N.O. Obiaraeri, (nd) 4

¹⁴M.O.U Gasiokwu, *Human Rights: History, ideology and law* (FalAnied Nig. Ltd 2003).

¹⁵O. Eze, *Human Rights in Africa* (Macmillan publications Ltd 1984) 5.

¹⁶E.E.Dorwick, *Human Rights: problem, perspectives and Tex* (Westmead, Saxon House, 1979) 8-9.

¹⁷N .OObiaraeri, *fundamental themes on inter natural human rights* (Zubic infinity concept 2015) 186.

This division of Human Rights into three generations was initially proposed by Czech Jurist Karel in 1979¹⁸. First, the rights were generated by the English, American, and French revolutions, such as the right of life and liberty, rights to freedom of speech and worship amongst others. The second generation of economic; social and cultural rights; which associated with revolts against the predations of unregulated capitalism includes the rights to work and the rights to education. The third generations of solidarity rights includes the collective rights to political self-determination and economic development¹⁹.

Human rights are the rights that a person enjoys merely by virtue of being human. They are rights that all people have equally and without prejudice. All human beings are born free and equal in dignity and rights; they have reason and conscience, and they should act in a brotherly manner toward one another. Human beings have an intrinsic value, absent in inanimate objects²⁰. To violate human rights would therefore be a failure to recognized worth of human life²¹. These rights are now collectively perceived either as a sense of humanity as a whole, a particular community or a distinct section of the population such as seen in the Niger Delta Region in Nigeria, where people are agitating for their rights to population-free environment. Human right as a concept has an evolving nature. It has been developed through laws, customs and religions, throughout the centuries. In some form or other, people tend to believe that it is inappropriate to do to others what you may not want them to do to you, in order words understanding the need to respect the feelings and rights to others without. Human Rights are associated with the basic and freedoms to all humans²². Some of the examples of rights with both represent human rights; include civil and political rights such as the rights to life and liberty, freedom of expression, and equality before the law. Social-cultural and economical rights are non-transferable, insuperable and interdependent. A human right is a universal moral right, something which all men , everywhere, at all times ought to have, something of which no one may deprived, without a grave affront to justice, something which is owed to every human simply because he is human²³. To celebrate these human rights, there is need for a proper understanding of the responsibility towards raising voice against the violation of another's rights and there should be acceptance of the principle of non-encroachment to others rights, whose idea is this

Fundamental human rights

Fundamental Rights differ from a non-fundamental right in one vital respect; a fundamental right is inn violable in the sense that no law, ordinance, custom usage or administrative order can bridge or take away fundamental right. Any law which fundamental rights are binding on the legislative as well as the executive. A fundamental right cannot be taken away, even by a constitutional amendment, if it forms the base structure of the constitution²⁴. Therefore, the fundamental rights guarantee certain rights to the individual whereas the directive principle of the state policy gives directions to the state to provide some other rights to its citizens.

¹⁸C. N. Kevel, Human rights: A third-year struggle: The sustained Effort to give force of law to the Universal Declaration on Human rights (United Nations Educational. Scientific and Cultural Organization 1977) 7

¹⁹Freeman 2003

²⁰Article 1 of the United Nations Universal Declaration of Human Rights (UDHR)

²¹Melden 1977

²²T. Buergenthal, International protection of Human Right (1976)(1)<<https://doi.org/10.109/bybill/4.1.493>.

²³S. Augender, Questioning the University of Human Rights (2002) (1,2)india socio legal journal 28.80.

²⁴BN Gupta, Human Rights: Acts, statutes and Constitutional provision (New DelhiKalpaz publication, 2009).

Specifically fundamental human rights are referred to those moral rights which every human being is entitled to for the fact that he is rational and moral in condition with other beings. In Nigeria, fundamental rights are constitutionally employed to differentiate the species of civil and political rights that are justiciable from the genre of other non-justiciable human rights which are mainly economic, social and cultural²⁵. In **Ozoukwu v. Ezeonull**²⁶. It was decided that owing to our constitutional development, a distinction has emerged between fundamental human rights are integral part of human rights which are inalienable, although they have been treated over domestic laws. Human rights represents demands or claims which individuals or groups make in society, some of which are protected by law and have become part of *lex lata* while others remain aspirations to be attained in the future²⁷. The deprivation or violation of such rights does not reap them of their status considering the fact that they are supposed to be claims, invariably supported by the ethics and culture and should be by law, made on the individuals or groups based on their humanity. Moreso it is right that in the event of any ambiguity or uncertainty, in the interpretations of human rights provisions should be handed to the international norms of human rights²⁸. There is also need for a widespread knowledge and understanding to achieve a full understanding of human rights, Accordingly, human rights treaties and instrument to which Nigeria is a party, must be kept alive and relevant in the interpretation and application of chapter iv of the constitution and relevant rules of enforcement²⁹. This means that the powers of Government must be exercised in accordance with the ordinary law of the land. Accordingly a person cannot be punished for an offence except for an offence, except the offence is known to law and the penalty thereof is presented in the ordinary law of the land. Otherwise an accused cannot be liable for the offence not known to the law.

In the case of Governor of **Lagos State v Ojukwu**³⁰, **Oputa** Conceptualized the rule of law pre-supposes that the state is subject to the law and the Government should respect the right of individual citizens under the rule of laws. Also, Obaseki held that the rule of law means that the government should be conducted within the framework of recognized rules and principles which restrict discretionary powers.³¹ The Supreme Court in *Miscellaneous offenses Tribunal v Okorofor*³² held that Nigerian Constitution is founded on the rule of law, the primary meaning of which is that everything must be done according to the law. From the foregoing, it does appear that the rule of law emphasizes on the need to ensure that both individuals and institutions are subjected to the laws and these laws are certain and well defined as well as anchored amongst others on promotion and protection of human rights.

Theoretical framework

Natural law theory

The doctrine of natural law has been the moral foundation of society for centuries and throughout cultures. Human rights, on the other hand, now take precedence. Natural law is a theory that believes that certain rights are inherent in human nature and that these rights can be better understood globally through reason. Natural law theory seeks to explain social necessity in terms of a rational person's moral sense; that is, moral principles derived from man's rational nature.

²⁵Ibid

²⁶(1991) 6 NWLR (pt. 200), 700@963-778

²⁷C. E. Osita, *Human rights in African* (Macmillan Publications Ltd. 1984)5.

²⁸M. O. Unegbu *enforcement of fundamental Rights in Nigeria: Notes, cases and precedent* (Deep Law professional publishers 1997) 14.

²⁹Ibid

³⁰(1986)1 NWLR (Pt 18) 621. 647.

³¹Ibid

³²(2001) 18 NWLR (Pt 745) 295.

Human law, according to the theory, is founded on some universal principles that can be discovered by reason or relationship and are considered everlasting, immutable, and ultimately based on the rational character of humans³³. This theory carries with it a requirement that its principles are universal, unchangeable and absolute³⁴. Human rights are increasingly being portrayed as the universal language and ethical foundation of international interactions. At the same time, human rights' universality, indivisibility, and interdependence all function as safeguards for human dignity. Although the rights recognized and expounded in the Declaration apply to everyone because of the common origin of the person, who remains the pinnacle of God's creative design for the world and for history, the theory asserts that they are based on the natural law inscribed on human hearts and visible in various cultures. Human rights would be limited if they were taken out of the context. This would lead to a more relational understanding of them. Human law, according to natural law theory, is founded on human beings' logical nature. Nature has its own set of rules. It contains certain universal principles that can be discovered by reason and to which human laws must approximate as an order of operation. As a result, any law that doesn't agree with these universal principles or moral codes isn't law³⁵. These universal rights belong to every human being irrespective of age, sex, race, endorsements. Met cetera. More so, universal irrespective of whether or not they are recognized in a given society, these universal rights are called natural rights or in an expression more commonly used; fundamental rights³⁶. The nature law perspective was well-expounded by Eso J.S.C in *Ransome-Kuti v. A.G. Federation*³⁷ where it stated that the nature of a fundamental right is that it is a right which stands above the ordinary laws of the land which is antecedent to the political society itself, it is a primary condition to a civilized existence.

Positive law theory

Natural Law theory aggregated the relations of law and morality. Prevailing theories of natural law shared the features of moving away from the realities of actual law so as to discover in nature or reason, principles of universal validity. Positive law is a reaction against particularly that aspect of natural law theory. It insists on a distinction between human law, which they call positive law and moral and science law. The classical version of positive law theory is John Austin's command theory. He defined law as "a rule" laid down for the guidance of an intelligent being by having power over him. Hans Kelsen developed a modern version of positivism. He recognized that law must have a normative base. He called it the logical constitution. It is the basic evaluation premises from which the legitimacy or validity of all the laws derived. The postulation of the positive theory of law is to the effect that law is a command of the sovereign powers³⁸. The positive theory does not concern itself with the content of law regard law as law whether it is just or unjust is immaterial³⁹.

³³O.C. Njoku, *Studies in Jurisprudence: A Fundamental Approach to the philosophy of Law* (Claretan Institute of philosophy, 2001) 12.

³⁴ U.S.A.F Nnabue, *Understanding Jurisprudence and Legal Theory* (Revised ed, Bin Publications, 2004) 58

³⁵O.c. Njokwu, (n40)11

³⁶ Ibid

³⁷(1985) 2 NWLR (Pt 6) 211 & 230

³⁸ (1985) 2 NWLR (Pt 6) 211 & 230

³⁹ U.S.F Nnabue, *Law and Legal Powers* (Bons International book Centre Abuja 1999) 139-144

The command of sovereign power over a state is captured in its laws and legislation. In the case of human rights in Nigeria, the sovereign's order can be inferred from Chapter IV of the Federal Republic of Nigeria's constitution of 1999. It is also recognised as a fundamental human right under the 1999 constitution.

There is a recognition that not all human rights are codified, and that the source of human rights and their protection codified under the constitution is not always an act of nature, but rather an act of positive law. It remains true that a positivism theory based solely on observed facts or an idealistic philosophy of absolute immanence is powerless to establish the existence of inherent human rights that are prior to and superior to written laws and agreements between governments that the civil community is required to recognize and enforce as universally valid and whose abolition or infringement no consideration of social utility can even for a moment justify. In summary, positive law theory holds that in order to determine what legal rights you have, you must first examine society and determine your moral rights in order to determine what true morality is. You could have legal rights that genuine morality says you shouldn't have, and your society could deny you your legal rights that true morality says you should have.

Challenges of human right protection in Nigeria

Fundamental human rights were the first guarantee in the constitution of Independent Nigeria in 1960. Today, they are guaranteed in Chapter IV of the 1999 Constitution. They can also be found in other laws and legal instruments, such as the African Charter on Human and People's Rights. However, they are not privileges as they could be withdrawn at the whims and caprices of the government. Governments have the responsibility to ensure the protection of these rights from being violated or infringed upon. In spite of these provisions, Nigeria encounters quite substantial problems in governance, values, and institutional capacity, among others, which constitute the challenges for the realization of human rights in the country. Other challenges facing human rights in Nigeria are the challenges of renewing the norms and institutions as well as the processes of government. However, eliminating such problems will be difficult since the government has been badly compromised by official corruption, indifference, cynicism, and lack of accountability. Some of these problems are as follows:

Corruption

In recent times, corruption has been internationally recognized as a major social problem which is capable of endangering the stability and security of nations, their socio-economic and political development, as well as undermining the value of democracy and morality. As a result, eliminating corruption becomes a priority at both the national and international levels with concerted efforts, exchanges of ideas, and a certain degree of standardization. Corruption, like a fluid, germinates in state soils, spreads its tentacles within state borders, and ripens in international domains.⁴⁰ Both developed and developing states are not left out of the problems. Corruptions cause reduction in investment, lack of respect for the rules of law and human rights undemocratic practices and diversion of funds meant for development and provision of essential services. Most importantly, corruption has the greatest impact on the most vulnerable part of a country's populations; the poor⁴¹.

⁴⁰United Nations Global Programmes Against corruption: an outline for Action' (1999) Vienna Centre for International Crime Prevention Office for Drug Controls and Crime Prevention;6

⁴¹United Nations Global Programmes Against corruption: an outline for Action' (1999) Vienna Centre for International Crime Prevention Office for Drug Controls and Crime Prevention;6

Moreso, corruption has become one of the most salient manifestation of the organized crime syndicate of the globalized world. Which has grave natural and international ramifications⁴²? For the promotions and protections of human rights in Nigeria, accountability, compliance and prevention of impunity, must be given proper and promotion of human dignity, safety and security. In Northern Nigeria for instance, there are news of reoccurrences of crisis either due to the endless Jos crisis, religious crisis or the exposures of the faceless Boko Haram sect which has become a terror to the people. The resultant effect of that people end up losing their rights to life and freedom of movement. Also, impunity has become the order of the day in Nigeria as people now perceive it as a way of life and those who indulge in corrupt. Practices most times are allowed to get away due to their connection to those in authority. In fact, they end of being celebrated and occupy important places in the society. Another example is corruption in the judicial system of government. This type of corruption denies victims the right to fair treatment and justice and undermines the rules of the law. For instance, if a judge accepts a bribe, it will definitely affect the independence and impartiality of the judge's ruling. Corruption also affects the administration of justice when it takes place before cases reach court. This could occur through the manipulation of evidence at the police level or the altering of facts at the prosecution level. Access to justice tends to be a crucial issue for the protection of human rights. Therefore, the principles of justice can only exist if corrupt practices are eliminated from the judicial system. There is a need for special attention to corrupt practices ranging from police officers, prosecutors, and the judiciary to prison officers. Promotion of human rights in Nigeria All policies, programmes and measures geared toward the achievement of a stable human rights regime are undermined by court practices which have made a mockery of the fundamental rights and objective and directive principles of state policy enshrined in the constitution of the Federal Republic of Nigeria⁴³.

Insurgency

Insurgent's activities have claimed hundreds of lives and destroyed many habitations and sources of livelihoods across Nigeria. Essentially, the rising waves of insurgency has overwhelmed the internal security capacity of the polices and has led to increased involvements of the military internal security operations. Nigeria through its military and other para –military forces have been battling with several violent groups whose actions undermine human rights and natural security. The most notorious is the Boko Haram. Group this middles group has caused destruction of lives and properties in northern Nigeria, putting the entire in a state of panic and chaos. Boko Haram was a little understood to be dangerous but parochial sit believed to be in decline after a purge by the Nigeria security forces in 2009. In July same year the Nigeria police force began investigating the group and based on this, several of their leaders were arrested which sparked up deadly clashes with the Nigerian security forces that resulted in the death of our 700 people.⁴⁴ Years later this group has evolved into Nigeria's most serious security threat, one which shows no sign of abating is site of government repeated promise of resolving the problems.

⁴²R.R Babu, 'the United Nations Convention against Corruption; a Critical Overview' Abstract, 891898 Accessed 4 February 2019.

⁴³Chapter II of the CFRN, 1999.

⁴⁴P.B Zainab a therat to national security: the case of Boko Haram in Nigeria (2014) (3) academic journal of interdisciplinary studies mcser publishing, Rome, 286

The spate of violent attacks by Boko Haram has been characterized by the abduction and killing of people as well as destruction of property and religious centers, plunging the country into a chronic state of insecurity⁴⁵ Boko Haram's activities especially from late 2009 till date, poses serious threat to the realization of human rights in Nigeria. The incidence of bombing perpetrated by the religious sect is capable of affecting the foundations of human rights if it unchecked.⁴⁶ Although the government has desired measures to checkmate these activities, it seems that efforts have not yielded the desired result.

Attitude of concerned authorities

In most situations the government lacks the political will to take issues of human rights seriously. The national human rights commission charged with the mandate of protection and promotion of the citizenry has not done enough primarily because the organization is handicapped by the non-gazette of the National Human rights passed into law since 2010⁴⁷. Thus, lawyers in the commission are unable to take up cases of violations of human rights especially those perpetrated by security agents; as such cases may endanger the lives of people who decide to take up the case. Suffice it also to say that insurgency of government at all levels does not only violate the social, economic and cultural rights of the citizens but triggers other violations like extrajudicial killings, rape, torture amongst others⁴⁸. Such violation of rights brings about insecurity in the country. In *The Case of Qyang Azi & Ors V. Federal Republic of Nigeria & 4 Ors*⁴⁹, the cost or award of damages to the tune of 10 million naira against the federal government and the others in favour of the plaintiffs for the violation of their fundamental rights (right to personal liberty) is yet to receive compliance. Cultural, religious practices and industrial attitude: most parents and guidance generally tend to fail to respect the rights of children and wards as provided in the child rights act. The culture and practice of female genital mutilation for instance, can be carried out at any stage in the life of a female child, depending on the people's culture and believe. In customs where it is practiced, female genital mutilation is carried out by using varied types of unsterilized instruments ranging from special knives, scalpels, scissors, and pieces of glass or razor blade. The procedure can cause various side effects as a result of the use of contaminated instruments or due to unhygienic dressing of the mutilated genital organs. Some of its resultant effects are serious infections, abscesses and small benign tumors, hemorrhages, shock and clitoral cysts. The truth is that such practice is suicidal and should be regarded as unequivocal reprehensible among people. It is an affront to the Nigerian Constitution⁵⁰. and the African Charter on Human and People's Right,⁵¹. Which in turn constitute obstacles in the realization of human rights protection in Nigeria?

Until there is a solemn resolve by every Nigerian to perpetually keep the most of human rights flying in this country, in individual lives in accordance with the law of the land, doing same using

⁴⁵N.S Amalu impact of Boko Haram Insurgency on Human Security in Nigeria (2015) (14), Global Journal of Social Sciences; 35

⁴⁶J Abobo, Boko Haram threat to national security and rights of life (diamond real resources consult 2013) 122

⁴⁷F.d. Nzarg, 'an analysis of human rights violation by the Nigerian security services' (2014) (30) journal of law, policy and globalization, issn 2224-3240

⁴⁸ Ibid

⁴⁹ Unreported suit delivered on the 26th of march 2013, FHC Jos judicial division before Justice Allagoa.

⁵⁰ Ibid

⁵¹ SS 33 and 34 CRFN, 1999

the instrumentality of our various public offices will remain a daunting challenge, as *nemo dat quod non habet*⁵².

Prospects of human rights protection in Nigeria

Human Rights are the fundamental features of any true democratic setting because the essence of democracy itself is based on the idea of human rights. Human rights are those inalienable rights which every person is entitled to by virtue of being a human being. The relevance of human rights among the societies, nature and institutions cannot be overemphasized. They are rights which are recognized by the government and constitutionally entrenched and guaranteed to the citizens of Nigeria. Human rights are important to man as life itself and have become the yardstick for measuring an organized civilized or democratic society. Thus, the most civilized state is not the state which has constitutionally provided for the right person, but one which has adequate machinery and constitution safeguards for the protection, enforcement and realization of these rights. The Nigerian experience as to the realization of human rights as guaranteed in the constitution has remained a myth and has been marked with recurrent abuses mostly by those in positions to safeguard and ensure the protection of their rights. For instance, there are cases of police brutality and unconstitutional detentions. More so, there are human right abuses from traditional institutions and harmful cultural practices common to the people in a particular community, such as trial by ordeal, child marriages, child Labour, widowhood, practices, and genital mutilation amongst others.

Most people are so arrogant of their rights that they may not seek redress in a situation of an infringement of their rights. Worst still, even where they have the awareness and the courts are made available, the door of justice may be shut against the victims by the high cost of fees and high level of corruption in the judiciary. The resultant effects of the problem lead to the current abuses of human rights making the realization of human rights to remain rather sour in Nigeria. Since human rights are most effectively protected at the national level, it is necessary for each national government to take all necessary measure to ensure the prevention, prohibition and eradication of all forms of human rights abuses. It should not only be concerned about international human rights instruments, rather, there is need for practical commitment which should be demonstrated at all times towards the realization of their objectives. For the realization of the promotion and protection of human rights in Nigeria, accountability, compliance and prevention of impunity must be given priority. Their persuasiveness of impunity has become a challenge for the promotion and protection of the rights to human dignity, safety and security. Moreover, freedom of the press and the freedom of expression are fundamental human right, key to functioning democracies. A vibrant free press is critical to illuminating public discussion on issues arising from Nigeria's democracy, including security and corruption⁵³. The silencing of journalists and political critics, whether via arrest and detention, threats or other forms of intimidation should be outlawed in Nigeria⁵⁴. There should be respect for the rule of law as no one is above the law and ensure that the corruption of the judiciary is prevented. This will make it easier for the citizens to trust the judiciary.

⁵²U.U. Chukwumaeze and H. Alisiqwe (N 16)

⁵³A.R. Adenrele and N. M. Olugbenga, 'Challenges of Human Rights Abuses in Nigeria Democratic Governance-which way forward?' (20140 (1) (5) Journal of Social Economic Research; 96

⁵⁴Ibid

Conclusions

It is observed that the realization of human rights in Nigeria has become endemic. This could be as a result of the complicity of the individuals and state actors. In recent times, human rights abuses have held people down, devaluing our cherished values and putting Nigeria in a bad plight in the eyes of the outside world. There are a number of fundamental obstacles to the attainment of this highly desirable goal of protecting human rights. It has further been observed that some of the constitutional provisions which are geared towards ensuring the protection of human rights have the unintended effect of engendering undue delays, and consequently conspire against access to justice. Therefore, Nigerians must come together to combat these ills by impressing upon their democratic elected government that the principles of democracy and human rights must be sacrosanct. For a prosperous democratic governance to be realized in Nigeria, true principles of democracy must be imbibed and deepened. It is only when we approach the issue along these lines that the basic human rights will be given their proper place in the scheme of things in Nigeria.

Recommendations

In view of the foregoing, the following recommendations have been proffered:

1. There is need for constitutional review to elevate the status of chapter II of the Nigerian constitution on fundamental objectives and directive principles of state policy to justiciable state in line with international best standard.
2. Poverty is a bane to the realization and enjoyment of human rights. Government should deliberately formulate and execute policies and programs aimed at eradicating poverty from the society. All known customary practices that are against public policies such as female genital mutilation, child marriages, widowhood practices, discrimination against women, amongst others, should be abolished or declared null and void as being inconsistent with known principles of natural justice, equity and good conscience and with the constitution.
3. Judges and indeed the judiciary should be more pro-active and courageous in determining human right cases brought before them; police excesses should be closely checked to protect human right or the abuse of these rights through battering, unlawful methods of examining suspects and abandon torture as a practice of extracting evidence and confessions.
4. There is the necessity for the establishment of human right courts. This will be without prejudice to the existing jurisdiction of the Federal High Court and State High Court on human right cases. The human right courts should have and exercise concurrent jurisdiction with respect to the enforcement of fundamental human rights. This will help enhance quick access to judicial redress and decongest the court, ensuring speedy hearing and determination of cases. Seek redress in court whenever their rights are abused⁵⁵. Above all, the citizens should not help the government to protect their rights, but they should also live responsibly to protect the rights of others at all levels of human relationship. Therefore, it is submitted that until these issues are addressed adequately, the prospects of human rights protection in Nigeria will still face a lot of human rights violations.

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