

The Nigerian State and International Human Rights Laws in the Fourth Republic

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ABSTRACT

Nigeria, during her long period of military dictatorship, earned an appalling human rights record accompanied by various degrees of sanctions by the international community. Underlying these odious developments were the various instances of violations and gross disrespect for international human rights law by the successive governments of the day. Thus, as part of the efforts at redeeming the country's global human rights image, pro-democracy forces pushed for the return of the country to the democratic system, a desire that eventually materialized in May 1999. This paper, therefore, examined Nigeria's commitment to international human rights instruments towards the actualization of the International Community's goal of Universal Human Rights. Relying on data collected through the secondary sources and the qualitative-descriptive method of data analysis, the study found, that Nigeria had exhibited an appreciable commitment to the actualization of the International Community's goal of Universal Human Rights having ratified several important international treaties and conventions for the protection of human rights both at the global and regional levels. However, certain major challenges still hamper the country's full commitment to these instruments, and adequate protection of the fundamental rights and liberties of her citizens. To enable Nigeria to overcome the challenges, the study suggests, among other measures, the revocation of section 12 of the 1999 Nigerian Constitution to enable seamless domestication and implementation of all existing human rights treaties Nigeria has acceded to, and those it may accede to in future times.

ARTICLE INFO

Article history:

Received: 03 September 2020

Accepted: 28 December 2020

Published: 26 March 2021

DOI: <https://doi.org/10.47836/pjssh.29.1.31>

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Keywords: Democracy, human rights, international community, international laws, international human rights laws, Nigeria's Fourth Republic

INTRODUCTION

The long period of military rule in Nigeria attracted an appalling human rights record for the country. This period in the country's political history was characterized by extreme human rights abuses by the military dictators which provoked much international outrage. At the epicenter of these gross human rights violations were the regimes of Generals Ibrahim Badamasi Babangida and Sani Abacha. Human rights abuses in Nigeria during the reigns of these two former military heads of states ultimately reached a crescendo. For instance, the annulment of the historic June 12 presidential election, where Chief Moshood Kashimawo Olawale Abiola of the Socialist Democratic Party (SDP) emerged winner over his opponent, Bashir Tofa of the National Republican Convention (NRC) by Gen. Ibrahim Babangida, remains memorable. Also, the unfair trial and unlawful execution of Ken Saro-Wiwa and fourteen other members of the Movement for the Survival of the Ogoni People (MOSOP) by Gen. Abacha's government in 1995, continues to occupy a significant space in major discourses on the politics and governance of the country. These two experiences, among many others, remain part of the monumental political transgressions against the fundamental human rights of Nigerians during military rule, which have now become parts of the country's political history.

Significantly, the annulment of the June 12, 1993, presidential election and the execution of the fifteen Nigerian citizens of the Ogoni ethnic extraction in Rivers

States by the Abacha junta worsened Nigeria's human rights posture both locally and internationally as the actions were in clear contravention of the Nigerian Constitution and international human rights laws. Indeed, according to Birnbaum (1995, p. 10), all the fifteen Ogoni activists were "denied access to ordinary courts or any right of appeal, in violation of their fundamental human rights guaranteed both by Nigerian and international law". Thus, with their tradition of rule by decrees, the military governments in Nigeria committed fundamental human rights atrocities and greatly undermined the significance of the rule of law, a situation that culminated in a strained relationship between Nigeria and the international community during the period. Specifically, Nigeria saw colossal human rights infringements reach their peaks between 1994 and 1998, under the regime of Gen. San Abacha (Federal Republic of Nigeria [FRN], 2006). Apparently, "the abysmal situation of human rights under this regime resulted in Nigeria becoming a pariah state at the international arena and the country was put on the agenda of the United Nations Commission on Human Rights for five consecutive years" (FRN, 2006, p. 3). As its implication, Nigeria during the period was isolated from participating in the global community, and was served various degrees of sanctions which brought untold hardship on the country's population (Egobueze, 2017).

Besides the ugly image this scenario created for Nigeria abroad, the military's protracted transition programme (which

slowed-down the process of transition from military to civilian rule), provoked heightened agitations by pro-democracy and human rights movements in Nigeria. The transition struggle was not an easy task for the pro-democracy allied forces; but it took the unenvisioned death of Gen. Sani Abacha, (the then Head of States, on June 8, 1998) for the dream to eventually materialize on May 29, 1999, with the ushering-in of the democratic government of the erstwhile President Olusegun Obasanjo. This coming of democracy in May 1999, signaled a new lease of atmosphere for human rights in the country, hence the transition from military to civilian rule was considered highly important for Nigeria in that the event brought the country into its Fourth Republic. Relying on secondarily sourced data that was analyzed the qualitative-descriptive method of data analysis, this paper examined Nigeria's efforts towards upholding the universal goal of protecting and promoting individuals' human rights under the Fourth Republic through her commitment to international human rights instruments.

A Review of Related Literature on Democracy and Human Rights Protection

The relationship between democracy and human rights is a classical issue. Scholarly literature, both empirical and theoretically grounded studies, has long established the links between the two concepts. Suffice it to state that the subject matter has been around for a long time, and enjoys substantial

scholarly concern. As Besson (2011, p. 19) contended, "human rights and democracy have been regarded as a mutually reinforcing couple by many political theorists to date". Fundamentally:

...recent developments in human rights theory and especially current discussions on the so-called political conception of human rights that explain human rights *qua* external limitations on state sovereignty make the relationship between human rights and democracy a central feature of future human rights theories (Besson, 2011, p. 20).

While Human Rights are embedded in the idea and concept of Democracy, democracy is in-turn founded on the principles of human rights, in front of all the democratic principle as part of human rights (Kirchschlaeger, 2014).

Thus, democracy and human rights are both intertwined and interwoven. Borrowing the words of United Nations (UN) and International Institute for Democracy and Electoral Assistance (IDEA; 2013, p. 7), "the relationship between democracy and human rights is intricate, symbiotic and mutually constitutive". Simmons (2009, p. 25) corroborated this position when he explained that, "democracies are the natural allies of human rights because as a state becomes more open the public gains the ability to mobilize and press for increased rights". No mention of democracy is meaningful without reference to human

rights. Of course, it is difficult to define democracy without human rights (UN & International IDEA, 2013). At the heart of democracy lie liberties and freedom of expression. Human rights, from a procedural stance, are a basis for political opinion-building and decision-making process which provides every human being favourable conditions to partake in the political process (Kirchschlaeger, 2014).

The idea of equal political status is a fundamental democratic tenet because democracy is commitment to the equal political status of all persons. Just as human rights, democracy invigorates and enables political equality. The mutual relationship between human rights and democracy is confirmed by their common grounding in political equality (Besson, 2011). Of all forms of governments, democracies show greater respect for the rule of law and human rights of persons, which is a precondition for harmonious living. "Studies on compliance with international law suggest that democratic states have greater respect for their international legal obligations because they have experience with the rule of law at the domestic level" (Simmons, 2009, p. 14). Also, "the significance of democracy as a way to promote respect for human rights resides in the fact that it offers the promise of providing short-term strategic guidance for reformers and policy makers" (De Mesquita et al., 2005, p. 439).

No other systems can guarantee effective protections of human rights than the democratic states (UN & International IDEA, 2013). Undoubtedly, democracies

strive to preserve human rights as individuals' rights are obviously less prone to abuses in democracies than in other forms of governance arrangements. "A rights-based approach to democracy grounded in the rule of law is considered increasingly the most consistent safeguard against human rights abuses" (UN & International IDEA, 2013, p. 6). Researches on human rights have ceaselessly demonstrated the indispensability of the democratic system in minimizing violations of personal integrity (De Mesquita et al., 2005). The UN and International IDEA expatiates this fact as follows:

A functional democracy that accommodates diversity, promotes equality and protects individual freedoms is increasingly becoming the best bet against the concentration of power in the hands of a few and the abuse of human rights that inevitably results from it, in turn, the greatest protection of human rights emanates from a sustainable democratic framework grounded in the rule of law (2013, p. 7).

The UN & International IDEA further argues, on the other hand, that:

The success of democracy-building will be directly affected by the inclusive and consultative nature of the constitution making process, as much as by the eventual contents of the constitution. Human rights standards and jurisprudence provide

a detailed foundation for processes that are inclusive and consultative, as well as for the substance of what is contained in a constitution (2013, p. 10).

Thus, there cannot be substantial improvements in human rights without a viable democracy and effective institutions. Democracy and human rights are inseparable elements. Whereas progress in human rights requires significant improvements in democratic governance practices, human rights are a part of the major determinants of the strength and acceptability of any acclaimed democracy.

Theoretical Framework

The Blackstonian doctrine which emanated from William Blackstone's Commentaries on the Law of England published, 1765-1769 (Schorr, 2009), is the theoretical framework of analysis upon which this study is anchored. His Commentaries on the Laws of England serve both as a theory of law and a theory of rights in the lens of which the actions of states can be viewed and evaluated (Workmaster, 1999/2000). Blackstone wrote his Commentaries in favour of the common law, and sought to strengthen or protect it against anything that might render it weak (Callies, 2000). Thus, he strongly advocated the perfection of the common law (McKnight, 1959). Blackstone, held and esteemed the common law as the basis for all English legal decisions or proceedings, and common law did not permit the changing of law to reflect

common social beliefs by accretion but by avulsion (Callies, 2000). Accordingly, "the Blackstonian doctrine essentially states that international conventions or treaties are not directly enforceable in national legal systems unless provisions of such treaties or conventions have been re-enacted, by municipal legislative authority, into domestic law" (Dada, 2012, p. 38). This domestication is aimed at preventing the weakening of national law of states. Within the Blackstonian doctrine, the effectiveness of international agreements and treaties would be the function of the extent of the domestication or incorporation of their provisions into the national legal systems of states (Dada, 2012).

MATERIALS AND METHODS

This study is a descriptive research that investigates the Nigerian State under its Fourth Republic concerning international human rights instruments. The study employs the secondary method of data collection. The secondary data were sourced from books, journals, publications of National Human Right Commission of Nigeria, daily newspapers as well as the Internet. The data were analyzed using the qualitative-descriptive method of data analysis, consisting of instruments such as content analysis, inferences and logical arguments.

RESULTS AND DISCUSSIONS

The discussion of the study is presented thematically under, in sync with the summary of the findings stated as follows.

Summary of the Findings

- Nigeria under the Fourth Republic had shown demonstrable commitment in supporting the international community's efforts towards ensuring the attainment of the universal goal of adequate protection and promotion of human rights through her ratification and signing of numerous most important international human rights treaties or conventions at both global and continental levels.
- Despite the profound successes Nigeria has recorded in the field of human rights, the country is, however, still confronted with certain salient issues which blighting its commitment and actual fulfillment of her international and national human right obligations.

Nigeria and International Human Rights Instruments in the Fourth Republic

The Nigerian state has shown considerable level of commitment and support to the international community in the area of safeguarding human rights by ratifying and signing a good number of important global and regional human rights agreements (FRN, 2006). At the international level, human rights pacts the country presently accedes to include "the International Covenant on Civil and Political Rights (ICCPR) and its Optional Protocol on individual communications, the International Covenant on Economic, Social and Cultural Rights (ICESCR), the

Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)" (International Federation for Human Rights [IFHR], 2010, p. 8). Others are "the International Convention on the Elimination of all Forms of Racial Discrimination (CERD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and its Optional Protocol, and the Convention on the Rights of the Child (CRC)" (IFHR, 2010, p. 8).

In the African region, Nigeria is party to many human rights charters. These include "the African Charter on Human and Peoples' Rights, the African Charter on the Rights and Welfare of the Child, and the African Charter on the Rights of Women in Africa" (IFHR, 2010, p. 8). In the meantime, she is the only country in Africa that made a determined effort and "domesticated the Charter on Human and People's Rights" (IFHR, 2010, p. 8). This step by Nigeria represents a milestone in the country's efforts at incorporating global and regional human treaties (FRN, 2006). Besides, as part of her commitment to upholding human dignity and rights, Nigeria has also prepared and submitted human rights reports to the United Nations and the Africa Commission. Among these are "the Report on The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), submitted to the UN; the Report on the UN Convention on the Rights of the Child, submitted to the UN" (FRN, 2006, p. 10). On the regional level this includes "the Report on the African

Charter on Human and Peoples' Rights, submitted to the African Commission" (FRN, 2006, p. 1). Additionally, there are other achievements Nigeria has made in international human rights domain. Besides successfully establishing her presence and prominence within global community through active participation, especially in recent times, Nigeria fielded a candidate and gallantly won the membership of the United Nations Human Rights Council (HRC) in 2006. Subsequently, precisely in June 2008, Nigeria also won election as the President of UN's HRC, and served in that capacity up to June 2009 (IFHR, 2010). At regional level, Nigeria in November 2008, "hosted the 44th session of the African Commission on Human and People's Rights (ACHPR). In December 2008, the then country's President Umaru Musa Yar'Adua (late) was elected the new Chairman of the Economic Community of West African States (ECOWAS), to serve for one year" (IFHR, 2010, p. 8).

While appreciating Nigeria's role on global and continental fronts, it should be borne in mind that the concept and idea of human rights cannot be said to be entirely new to the country. However, in modern times, Nigeria began to recognize the importance of upholding the individual dignity and human rights formally after her independence in 1960. Nigerian Constitutions including "the 1960 independence Constitution, the Republican Constitution of 1963, the 1979 Constitution and the current 1999 Constitution" (Dada, 2012, p. 34), have all recognized and given

proper attention to human rights. These constitutions contain adequate provisions for the protection of human rights. As a matter of fact, the 1999 Constitution (as amended) which is presently in operation has devoted two chapters consisting of twenty six sections, to human rights issues (Dada, 2012).

Practically speaking, Nigeria's human rights situation has, no doubt, improved tremendously under the Fourth Republic. In a statement, the former US Ambassador to Nigeria between 2010 and 2013, Terence P. McCulley unequivocally testified to this claim when he noted within his three years as the US Ambassador to Nigeria, that the country had recorded progress in the field of human rights. In buttressing his point, McCulley alluded to 2011 elections which were for him the most free and fair elections in the history of the nation; the committed reconciliation efforts in the North; the enactment of the Freedom of Information Act (FIA); and the visible efforts of the House of Representatives towards managing security and corruption-related cases in the country, including its recent ordering of an investigation into rising cases of extrajudicial killings by the police (McCully, 2013). Among other giant strides made in the field of human rights field, "Nigeria has also set up mechanisms and adopted laws aimed at ensuring respect for human rights, including for example the establishment of the National Human Rights Commission...and the creation of State Directorates for Citizens Rights" (IFHR, 2010, p. 10). Therefore, overall, Nigeria has

demonstrable track record of commendable efforts and commitment at the international, regional, and national levels, towards the realization of the international community's human rights aspirations.

Despite these feats, however, the country is still faced with some obstacles in attaining desired heights in human rights endeavor. The most important of these challenges are hereby examined.

Challenges to Nigeria's Commitment to International Human Rights Instruments

Despite Nigeria's commendable efforts and successes in international, regional and national human rights environments, the country, from the optics of this study, is still confronted with some notable challenges which limit her commitment to international human rights instruments such as follows.

Legal Challenge: The Domestic Legal System Perspective. The major barrier to Nigeria's commitment to, and compliance with international human rights treaties stems from the core proposition of the Blackstonian doctrine employed as the basic framework of analysis in this study, which Dada (2012, p. 38) described as "doctrinal relationship between the international human rights instruments and the domestic (municipal) law; which includes the constitution". In concordance with the tenet of the Blackstonian doctrine, this relates essentially to the Nigerian domestic legal system and the supremacy attached to the country's constitution over international

laws including human rights treaties. Dada (2012) explained that section 12 of Nigeria's Constitution contained an inherent shortcoming which served as a basis for assessing the status of all treaties within the country's legal framework. The said section of the Constitution stipulates thus: "No treaty between the federation and any other country shall have force of law except to the extent which any such treaty has been enacted into law by the National Assembly" (FRN, 1999). As can clearly be deduced, "the implication of the above provision is that the efficacy of a treaty is dependent and predicated on its "domestication" (Dada, 2012, p. 38).

From the foregoing, it becomes apparent that section 12 of the Constitution constitutes a great impediment to the country's commitment and fulfillment of her obligation to international human rights instruments to which it is a party. Based on the argument of the Blackstonian doctrine, the resultant consequence is that, the several human rights treaties Nigeria accedes to have little or no meaning and impact unless the National Assembly of the country adopts and re-enact them, as those instruments are not automatically binding on Nigeria. Thus, Nigeria merely being a signatory to various international human rights treaties does not really transform into much concrete impact on the human rights environment at all levels, as those treaties have no force on the country. The interpretation of section 12 of the Constitution by the Nigerian Supreme Court goes further to explain the implication of the provision in simple terms, thus: "An

international treaty to which Nigeria is a signatory to does not *ipso facto* (meaning ‘as a result’, or ‘for this reason’) become a law enforceable as such in Nigeria. Such a treaty would have the force of law and therefore applicable only if the same has been enacted into law by the National Assembly...” (Dada, 2012, p. 38).

The Supreme Court states further that, though treaties are equal and similar in status with domestic legislation, the Constitution enjoys preeminence over treaties (Dada, 2012). Advancing its argument, the court refers specifically to the African Charter on Human and People’s Rights (Ratification and Enforcement) Act, and states as follows:

It is a statute with an international flavor. Being so...if there is a conflict between it and another statutes its provisions will prevail over those of other statutes for the reason that it is presumed that the legislature does not intend to breach an international obligation... The Charter possesses “a greater vigour and strength” than any other domestic statute but that is not to say that the charter is superior to the constitution (Dada, 2012, p. 39).

Consequent upon this, Dada (2012) posited that the provision of section 12 of Nigerian Constitution limits, restricts, circumscribes and abridges international human rights treaties to which Nigeria was a signatory. He further alluded that, given the prevailing circumstance Nigeria’s 1999 Constitution represented a major

obstacle to international jurisprudence and goals of human rights as its section 12 provision stands to discourage the Nigerian Government from fulfilling its international obligation in compliance with the several international human rights instruments to which the country is a party (Dada, 2012). Ideally, proper protection of the human rights articulated in international instruments necessitates that national constitution are governed by international human rights instruments because issues relating to human rights transcend the exclusive domestic jurisdiction of States (Dada, 2012). As long as section 12 provision in the Nigerian 1999 Constitution remains valid and applicable, successive governments in the country would be enjoying unwarranted immunity from international human rights treaties. This portends unprecedented negative consequences for the protection and promotion of human rights at international, regional, and national levels.

Institutional Challenge: The Judicial System and Security Agencies Perspective.

The weaknesses in Nigeria’s judicial system and the odious role of government security agencies. i.e., institutions meant to defend and protect citizens’ rights, are themselves one of the major obstacles to optimal realization of human rights aspirations in the country. Nigeria’s Civil Society Organizations (SCO) Coalition (2008, p. 5) summarizes the pitfalls of the judiciary thus:

The existing system of administration of justice in Nigeria is grossly inadequate. Access to

courts and justice is obstructed by inefficient legal aid, court congestion, high costs of litigation, poor and inadequate court facilities, cumbersome system of recording court proceedings (leading to delay and abuse of processes), archaic and non-uniform rules of procedure, and corruption in the clerical and administrative cadre.

On the other hand, the security agencies present another fundamental problem. They are known to be involved in excessive use of force and grave human rights violations. Generally, the trend of extrajudicial killings, illegal detentions and destruction of properties by Nigerian security forces has remained worrisome and such acts create a deadly cycle of mistrust, harming the very citizens the security agencies pledge to protect (McCully, 2013).

The United States Department of State and Bureau of Democracy, Human Rights, and Labour (BDHRL; 2017) confirmed McCully's claims by asserting that government security agencies in Nigeria were committing arbitrary and unlawful killings. It stated that "the national police, army, and other security services used lethal and excessive force to disperse protesters and apprehend criminals and suspects and committed other extrajudicial killings" (U.S. Department of State and BDHRL, 2017, p. 2). Similarly, the IFHR (2010, p. 20) attested that the Nigerian police and the military were responsible for human rights abuses when it asserted that "the military and the police are in many cases involved in human

rights violations against the population, including extrajudicial killings. It is reported that the military and the police extort money at roadblocks and there have been cases where they have reacted to refusals to pay by killing". Beholding the prevailing situation, it becomes crystal clear that the judicial system and the security forces in Nigeria are a serious impediment to actualization of the dreams of human rights in the country. Whereby these two key institutions for the promotion of respect for, and protection of human rights are in themselves contributory to the violations of human rights of the citizens, the hope of the common man is dimmed.

Leadership and Economic Challenges: The Political Corruption and Poverty Phenomenon Perspective. Political corruption has been widely recognized as one of the key challenges to democracy and good governance in Nigeria vis-à-vis protection of fundamental rights of the citizens. Unarguably, record has it that Nigeria has severally been mentioned among the world's most corrupt countries by various international good-governance and anti-corruption institutions. Importantly, Ikpeme (2014, p. 27) posited that "corruption has been noted by many researchers as a major problem confronting human rights system in Nigeria". Indeed, culture of impunity and institutionalized corruption, especially among government officials and/or political office-holders seriously inhibit the protection and promotion of human rights in Nigeria. The US Department of

State and BDHRL (2017) brought to the fore that the law provides criminal penalties for conviction of official corruption in Nigeria, but the rate at which officials continued to engage in corruption and impunity had remained very disturbing because the law was not being effectively implemented. Massive, widespread, and pervasive corruption continues to beset Nigeria in all facets and at all levels of government, including the security agencies. The immunity clause in Section 308 of the 1999 Nigerian Constitution shields political office-holders including the president, vice-president, governors, and deputy governors from being prosecuted on civil and criminal grounds while in office (US Department of State & BDHRL, 2017).

Consequently, they hide under the cover of the constitutional immunity to perpetuate corrupt practices that put the fundamental human rights of the citizens into jeopardy. The two major Nigerian anti-corruption agencies established to handle case of corruption involving government officials – The Economic and Financial Crimes Commission (EFCC) and the Independent Corrupt Practices and Other Related Offences Commission (ICPC) appear to be weak. The anti-corruption agencies are weakened by political influences and interferences. Originally, the agencies are empowered by law to prosecute corrupt officials, but undue meddlesomeness in their activities by the political class whittles down their effectiveness. Officials of the agencies who attempt to play by the rules in the discharge of their duties are often

harassed and frustrated by the higher powers. Recalling one of the memorable examples, the IFHR (2010, p. 22) narrated that:

A case that received significant media attention involved two members of the Economic and Financial Crimes Commission (EFCC), the body established to fight against corruption. In August 2008, Mr. Ibrahim Magu, former EFCC official, was arrested in connection with documents in his possession which it is believed were related to the EFCC's investigations into corruption at various levels of Government. When this fact-finding mission took place, Mr. Ibrahim Magu was still in detention and no charges were brought against him. On the same day, Mr. Mallam Nuhu Ribadu, EFCC Chairperson, who was investigating acts of corruption by top Government officials, was demoted from the post of Assistant Inspector-General of Police to Deputy Commissioner of Police as a way of intimidating him from releasing the facts and evidence about acts of corruption. In both cases, domestic and international anticorruption groups reported that the arrest of Mr. Magu and the demotion of Mr. Ribadu were motivated by their work at EFCC.

It is a truism, therefore, that in Nigeria, human rights defenders and civil servants

working on anti-corruption and good governance are often targeted and harassed (IFHR, 2010). Given this situation, impunity is the order of the day in Nigeria. The so-called powerful politicians and influential government officials in sacrifice the economic rights and well-being of citizens on the altars of corruption and impunity. Corruption in Nigeria obstructs good and responsive governance, depriving the citizens of their rights to basic social goods and services. It is “a factor that creates a vicious circle where human rights awareness is constantly paired with and undermined by harsh realities of poor economic and political performance...Corruption is both the cause and the consequence of political turbulence, human rights abuses and under-development” (Ikpeme, 2014, p. 27). Corroboratively, corruption in Nigerian context leads to diversion of financial resources from building of important socio-economic infrastructures that would cause businesses to flourish, attract foreign direct investments, and create job opportunities (McCully, 2013). In Nigeria, it is also observed that the, “very often officers who are expected to use their positions to promote human rights often collect bribe and turn their backs on terrible human rights violations meted on the masses” (Ikpeme, 2014, p. 27). This, of a truth, is the reality; this trend occurs almost daily in Nigeria’s national life.

On the other hand, Nigeria is blessed with abundant human and material resources, albeit the country ranks as one of the poorest countries in the world

(Ogbonnaya et al., 2012). The United Nations Development Programme (UNDP; 2009) observed that hunger showed its ugly face in most Nigerian homes where the average citizens struggled with a life of abject poverty. Hence, “the poor is alienated from himself as he lacks the wherewithal to afford the basic necessities of life such as education, medical facilities and so forth” (UNDP, 2009, p. 27). The prevalence of poverty among majority of Nigerians has much adverse impact on the human rights climate in the country. Poverty, as Christine (2001) put it, reduces human dignity and consequently the very core of human rights (as cited in Odeku & Animashaun, 2012). One of the most concrete ways in which extreme poverty affects human rights in Nigeria is in the area of access to justice. Section 46 of the Nigerian Constitution regards the rights to access to court and legal aid to Nigerian citizens in Nigeria as fundamental rights and guarantees them. Notwithstanding this, poor Nigerians mainly regard access to justice for the enforcement of their rights as exception rather than the rule (Brems & Adekoya, 2010; as cited in Odeku & Animashaun, 2012).

This is because as Ogbonnaya et al. (2012, p. 689) argued, “life generally in Nigeria is threatened by absolute and abject poverty... Although Nigerian economy is paradoxically growing, the proportion of Nigerians living in poverty is increasing every year”. Thus, the poor Nigerian would prefer to use the little financial resources in his disposal to cater for the daily needs of himself and family rather go to court to

spend it even when their fundamental rights are trampled upon. This is more so as the cost of litigation in the country is very high. Again, average Nigerians do not also have trust and confidence in the Nigerian legal system; there is the belief that justice can be subverted even in the case of clear violation of their rights due to the corrupt tendencies of some 'bad eggs' in the judicial system – corrupt judicial officers who are ready to receive bribe from the rich-oppressors. Hence, defending their rights in the courts is more or less considered as a wasteful adventure. In short, as Ikpeme (2014, p. 28) avered, "the poor can easily collect bribe (usually some annoying token like few cups of rice or bread) and gladly allow their rights to be infringed upon or deny them". This is quite true because poor Nigerians are arguably more concerned about how to ensure they meet their daily needs than issues bothering on their rights.

Social and Cultural Challenges: The Illiteracy and Mundane Cultural Practices Perspective. High level of illiteracy and certain cultural practices among Nigerian societies greatly inhibit the promotion and protection of fundamental rights and dignity of persons in the country. The menace of illiteracy contributes in no small measure to the appalling states of human rights in Nigeria today. The views of Ikpeme (2014) are noteworthy in this context. He argued that: "illiterate populations do not often show interest in knowing their rights or how to seek redress. They chose to succumb to infringement on their rights than to follow an

enlightened person who offers to show them the way to seek their rights" (Ikpeme, 2014, p. 28). This correctly depicts the situation in Nigeria. Many Nigerians, as a result of illiteracy, do not know either, observably, do they show any desire to know their rights, let alone how and where to seek redress when those rights and fundamental freedoms are violated. As a result, they remain somewhat perpetually silent in glaring instances of continuous violations of rights by the educated and state managers. The illiteracy level in Nigeria is alarming. Recently, the Nigerian National Commission for Mass Literacy, Adult and Non-formal Education (NMEC) disclosed that as much as 35% of adult Nigerians are illiterates ("The growing illiteracy", 2019). With this disturbing rate of illiteracy, it becomes apparent why the majority of Nigerians do not know their rights and how to express their fundamental freedoms. Education liberates from ignorance, oppression, and denial or deprivation.

Cultural orientation in the Nigerian society is another significant challenge to the promotion and protection of human rights. The notion of male dominance over women, for instance, poses a unique impediment to realization of the goal of human rights in the country. In Nigeria, as the IFHR (2010, p. 10) observed, "gender inequality is prevalent and institutionalized discrimination against women is also common. Even when specific pieces of legislation exist, as it is the case about gender equality and non-discrimination, they often remain not implemented". This

lap is rooted in cultural belief; Nigerian societies are patriarchal in nature, supporting and sustaining continued dominance of men over women. Women are merely regarded as domestic helpers and not to be seen in the public as social or political leaders (Ikpeme, 2014).

Due to cultural and religious barriers, the female has fewer opportunities in political parties and government in Nigeria (US Department of State & BDHRL, 2017). The subordination of the women folk in Nigeria also affects their rights to education. In Nigeria, men education is regarded as more worthwhile than that of female. As a result of this, “28% of Nigerians who can neither read nor write are women” (Nigeria’s CSOs Coalition, 2008, p. 5). To worsen the situation, various harmful traditional practices are common among Nigerian women (Nigeria’s CSOs Coalition, 2008). A study by Okome (2011) shows that many Nigerian women are subjected to the tradition of Female Genital Mutilation against their will (as cited in Ikpeme, 2014). This is despite the Federal law that criminalizes female circumcision or genital mutilation in Nigeria (US Department of State & BDHRL, 2017). The communities frown at any human rights issues that attempt to eliminate the age long traditional practices (Ikpeme, 2014).

CONCLUSIONS

Nigeria has recorded some noticeable progress in support of the realization of the universal goal of human rights. The country’s effort and commitment in this

regard is exhibited in its ratification of several most important international treaties or conventions both at global and continental levels, for the protection and promotion of human rights. Also, the general human rights condition in Nigeria has also improved since 1999, following the restoration of civil rule in the country. However, regardless of these achievements, Nigeria is still grappling with some important issues, with the most prominent directly rooted in the principles of the Blackstonian theory, which constitute obstacles to her commitment to, and fulfillment of her obligations to the international human rights legal instruments to which she has acceded, vis-a-vis the basic objective of protection and promotion of fundamental human rights of her citizens.

Recommendations

Merely identifying the above problems is not enough without finding enduring solutions to them. Thus, the paper recommends the following workable measures below to enable Nigeria to address the challenge so that she can attain her desired dreams and aspirations in the human rights sphere.

1. The Nigerian Federal Government through the Legislature should repeal the provision in the section 12 of the 1999 Nigerian Constitution. Alternatively, the constitution should empower the National Assembly to readily adopt, domesticate, and implement with immediate effect all human rights treaties that Nigeria has already acceded to, as well as

those it might accede to in future, as the case may warrant. This way, Nigerian Government will be sending strong signal to its citizenry and the international community about the country's sincere and genuine commitment towards upholding the universal goal of enhancing protection and promotion of the dignity and rights of persons. Overall, the step will impact positively on the Nigeria's human rights record and external image.

2. There is the need for reforms in the Nigerian judicial system to rid it of all the observed inadequacies.
3. Nigerian security agencies should properly re-train their personnel, and constantly organize sensitization programmes for them on issues of human rights and civil-military relations. This could be in the forms of workshops, seminars, and conferences in collaborations with relevant international and national human rights organizations, academics, NGOs among other actors to positively transform their officers' orientations about human rights issues.
4. To show that Nigeria is serious in its fight against corruption, the Federal Government through the Legislative arm should abolish the immunity clause in the Section 308 of the 1999 Nigerian Constitution, which protects political office-

holders from being prosecuted for corrupt acts while in office, from the constitution. Also, any officials, be it the political office-holders, judicial officers or the security agencies alleged of corruption and human rights abuses should be adequately tried, and if found guilty, apportioned due punishment according to the law. Members of the political class should cease from interfering in the operations of the EFCC and ICPC to allow the agencies the required freedom and independence to perform their roles. On their own, the agencies should fully apply the powers bestowed on them by law to handling corrupt cases including those involving high profile people in the country, and avoid being used as instruments of oppression and political witch-hunting. The Federal Government should design more pro-active poverty alleviation and mass empowerment programmes that can help Nigerians come out of the doldrums of abject poverty and hardship.

5. The Nigerian Federal Government should initiate free and compulsory education programme for Nigerian children, precisely from primary to secondary schools levels to increase access to education and literacy level among future generations of Nigerians. In this wise, Civic Education and Government

should be elevated to the status of compulsory subjects in the country's primary and secondary schools curriculum, respectively. The Federal Government should also design and introduce free adult mass literacy programmes to afford interested adult who may wish to acquire basic academic knowledge opportunity to do so. The Federal Legislature should make laws banning and criminalizing all harmful cultural practices by Nigeria communities. Meanwhile, specifically, the Federal Government needs to expedite actions towards implementing the existing law against traditional Female Genital Mutilation. All states across the federation, irrespective of their religious and cultural configurations must be made to domesticate the law through the state legislatures.

ACKNOWLEDGEMENT

The author would like to thank Dr Romola Adeola of the Centre for Human Rights, University of Pretoria, South Africa, who provided the insights and expertise that assisted greatly in the writing of the paper.

REFERENCES

- Besson, S. (2011). Human rights and democracy in global context: Decoupling and recoupling. *Ethics and Global Politics*, 4(1), 19-50. <https://doi.org/10.3402/egp.v4i1.6348>
- Birnbaum, M. (1995). Nigeria - fundamental rights denied. *Report of the trial of Ken Saro-Wiwa and others*. <https://www.article19.org/data/files/pdfs/publications/nigeria-fundamental-rights-denied.pdf>
- Callies, D. L. (2000). Custom and public trust: Background principles of state property law? *Environmental Law Reporter*, 30, 10003-10023.
- Dada, J. A. (2012). Human rights under the Nigerian constitutions: Issues and problems. *International Journal of Humanities and Social Sciences*, 2(12), 33-43.
- De Mesquita, B. B., Downs, G.W., Smith, A., & Cherif, F. M. (2005). Thinking inside the box: A closer look at democracy and human rights. *International Studies Quarterly*, 49(3), 439-457. <https://doi.org/10.1111/j.1468-2478.2005.00372.x>
- Egobueze, A. (2017). Nigeria's image, democracy and foreign policy, 1999-2007. *Asian Journal of Social Science Studies*, 2(4), 110-120. <https://doi.org/10.20849/ajsss.v2i4.276>
- Federal Republic of Nigeria. (1999). *Constitution of the Federal Republic of Nigeria, 1999* (with amendments 2011). Federal Government Printer.
- Federal Republic of Nigeria. (2006). *National action plan for the promotion and protection of human rights in Nigeria*. <https://www.ohchr.org/Documents/Issues/NHRA/nigeria.pdf>
- Ikpeme, N. J. (2014). A review of socio-cultural factors militating against human rights in Nigeria. *International Journal of Humanities and Social Science Invention*, 3(3), 25-32.
- International Federation for Human Rights. (2010). *Nigeria: Defending human rights: Not everywhere not every right: International fact-finding mission report, April 2010*. <http://www.refworld.org/docid/4bed03412.html>
- Kirchschlaeger, P. G. (2014). *The relationship between democracy and human rights*. https://www.sociostudies.org/almanac/articles/files/globalistics_and_globalization_3/112-125.pdf

- McCully, T. P. (2013, April 29). Nigeria's commitment to human rights. *Chidoonumah.com*. <http://www.chidoonumah.com/nigerias-commitment-to-human-rights/>
- McKnight, J. W. (1959). Blackstone, quasi-jurist. *Southwestern Law Journal*, 13(4), 399-411.
- Nigeria's Civil Society Organizations Coalition. (2008). *State of human rights in Nigeria*. https://lib.ohchr.org/HRBodies/UPR/Documents/Session4/NG/JS1_NGA_UPR_S4_2009_ConstitutionalRightsProject_Etal_JOINT.pdf
- Odeku, K., & Animashaun, S. (2012). Poverty, human rights and access to justice: Reflections from Nigeria. *African Journal of Business Management*, 6(23), 6754-6764. <https://academicjournals.org/journal/AJBM/article-abstract/40D1E0635709>
- Ogbonnaya, U. M., Omoju, O. E., & Udefuna, N. P., (2012). The challenges of democratic governance in Nigeria's fourth republic. *Mediterranean Journal of Social Sciences*, 3(11), 685-693.
- Schorr, D. B. (2009). How Blackstone became a Blackstonian. *Theoretical Inquiries in Law*, 10, 103-126. <https://doi.org/10.2202/1565-3404.1210>
- Simmons, B. A. (2009). *Mobilizing for human rights: International law in domestic politics*. Cambridge University Press.
- The growing illiteracy in Nigeria. (2019, April 2). *This Day*. <https://www.thisdaylive.com/index.php/2019/04/12/the-growing-illiteracy-in-nigeria/>
- United Nations and International Institute for Democracy and Electoral Assistance. (2013). *Democracy and human rights: The role of the UN* (Discussion Paper, September 2013). <https://www.idea.int/sites/default/files/publications/democracy-and-human-rights-the-role-of-the-united-nations.pdf>
- United Nations Development Programme. (2009). *Human development report 2009: Overcoming barriers: Human mobility and development*. Palgrave Macmillan. <https://doi.org/10.18356/2f6e5457-en>
- United States Department of State and Bureau of Democracy, Human Rights, and Labour. (2017). *Nigeria 2017 human rights reports*. <https://www.state.gov/wp-content/uploads/2019/01/Nigeria.pdf>
- Workmaster, J. N. (1999/2000). A Blackstonian approach to international relations. *Regent University Law Review*, 12, 297-312.

