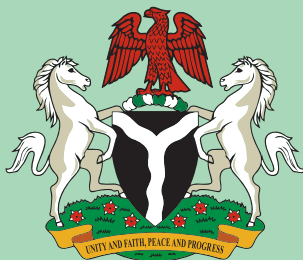




NATIONAL HUMAN RIGHTS COMMISSION



2021 HUMAN RIGHTS SITUATION ASSESSMENT IN NIGERIA

EDITED BY

**TONY OJUKWU, SAN (Editor-in-Chief)
OKAY BENEDICT AGU, ESQ.**



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LIST OF ABBREVIATIONS

A

ACDEG	African Charter on Democracy, Elections, and Governance
ACHPR	African Charter on Human and Peoples' Rights
ACJA	Administration of Criminal Justice Act
AIDS	Acquired Immunodeficiency Syndrome
ATPs	Awaiting Trial Persons
AUCPCC	African Union Convention on Preventing and Combating Corruption

C

CADE	Convention Against Discrimination in Education
CBO	Community Based Organizations
CCB/ CCT	Code of Conduct Bureau and Tribunal
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
CFRN	Constitution of the Federal Republic of Nigeria
COMTRIMCO	Corruption and Financial Crimes Cases Trial Monitoring Committee
CPA	Criminal Procedure Act
CPC	Criminal Procedure Code
CRA	Child Rights Act
CRC	Convention on the Rights of the Child

D

DOP District Police Officer

E

ECOWAS Economic Community of West African States

EFCC Economic and Financial Crimes Commission

ESC Economic, Social and Cultural Rights

F

FBO Faith-Based Organizations

FCT Federal Capital Territory

FEC Federal Edecutive Council

FGM Female Genital Mutilation

FOIA Freedom of Information Act

FREP Fundamental Rights Enforcement Procedure Rules

H

HIB Human Immunodeficiency Birus

HRC Human Rights Council

I

ICCPR International Cobenant on Cibil and Political Rights

ICERD International Conbention on the Elimination of Racial
Discrimination

ICESCR International Cobenant on Economic, Social and Cultural
Rights

ICT Information Communication Technology

INEC Independent National Electoral Commission

IOC International Oil Companies

J

JTF Joint Task Force

L

LEOs Law Enforcement Officers

N

NA Nigerian Army

NACS Nigerian National Anti-Corruption Strategy

NAFDAC National Drug Law Enforcement Agency

NAPTIP National Agency for the Prohibition of Trafficking in Persons

NCS Nigerian Correctional Service

NDLEA National Drug Law Enforcement Agency

NIS Nigerian Immigration Service

NJC National Judicial Council

NPF Nigerian Police Force

NSCDC Nigerian Security and Civil Defence Corps

NYSC National Youth Service Corps

O

OGP Open Government Partnership

OHCHR Office of the High Commissioner for Human Rights

P

PWDs Persons with Disabilities

S

SAN Senior Advocates of Nigeria

SARS Special Anti-Robbery Squad

SDGs	Sustainable Development Goals
SGBB	Sexual and Gender-Based Violence
SMRTP	Standard Minimum Rules for the Treatment of Prisoner
SSD	Safe Schools Declaration
STORP	Commission and Standard Orders and Rules of Procedure

N

NPF	Nigeria Police Force
NSCDC	Nigeria Security and Civil Defence Corps
NHRC	National Human Rights Commission

M

MDAs	Ministries, Departments and Agencies
------	--------------------------------------

T

TIPLEAA	Trafficking in Persons (Prohibition) Law Enforcement and Administration Act
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U

UBE	Universal Basic Education
UN	United Nations
UDHR	the Universal Declaration on Human Rights
UNCAC	United Nations Convention Against Corruption

V

BAPPA	Violence Against Persons Prohibition Act
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W

WHO	World Health Organisation
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FOREWORD

The State of Human Rights Situation in Nigeria is produced in conformity with the provisions of Section 6(c) of the National Human Rights Commission (Amendment) Act 2010 (“the Act”) which obligates the Commission to publish and submit from time to time, to the President, National Assembly, Judiciary, States and Local Governments reports on the state of human rights promotion and protection in Nigeria. The 2021 Human Rights Situation Assessment in Nigeria, offers the platform to assess the pattern and nature of complaints received by the Commission in the headquarters and state offices in the year under review.

This publication centres on complaints brought to the Commission which have been separated according to thematic areas. It covers Civil and Political Rights as well as Economic, Social and Cultural Rights. There are reports on areas of Human Trafficking, Terrorism and Other Violence, Election and Political Participation, Rights of the Child and Protected Environment amongst others. The book also discusses some thematic areas on Business and Human Rights, Corruption and Good Governance.

The different human rights issue-areas involved thereunder are: Right to life, dignity of the human person, fair hearing, private and family life, freedom of thought, conscience and religion. Others include the right to freedom of expression and press, peaceful assembly and association, freedom of movement, freedom from discrimination, health, the right to work, acquire and own immovable property, education as well as freedom from Sexual and Gender Based Violence.

The complaints reported have been admitted for investigation and intervention in line with the mandate of the Commission captured under Sections 5(j) and 6(a) of the Act. It is significant to note that this work reflects the pattern of human rights complaints only. In other words, other details not considered relevant to this work have been carefully omitted.

The book further contains human rights issues monitored through the print and electronic media. Our hope is that this book will serve various purposes such as educating the public on the pattern of human rights violations in the year under consideration.

I recommend it for use by the government, researchers and the citizenry.

Thank you.

Chief Tony Ojukwu, (OFR, SAN)
Executive Secretary,
National Human Rights Commission

ACKNOWLEDGEMENT

The Commission acknowledges and sincerely appreciates the contribution by the following: The Executive Secretary National Human Right Commission, Chief Tony Ojukwu, SAN, Special Assistant to the Executive Secretary and Head, Monitoring Department, Mr. Okay Benedict Agu, Titilayo Samuel, Ihome Richmond, Isioma Nwosa, Fatima Shamaki, Pwandumdi John Okoh, Jennifer Aga, Kabir Aliyu Elayo, Obinna Nwakonye, Nwabueze Anthonia, Zara Abubakar-Abdullahi, Ngozi Okorie, Salome Loko, Bem Kurrugh, Patrick Okafor, Uzoamaka Ifechi-Fred, Amaka Amadi, Ateda Ugiagbe, Murtala Olanrewaju, Comfort Olowomoran, Uche Okwuobi, Kadir Mariam Adama, Damilola Deker, Uchechukwu Mebrim, Oluchi Adiezi, Angela Ogbame, Peter Acha, Nabila Badamasi Tahir, Naiyeju Bukunmi Ayo and Danladi Yohanna.

Finally, we also acknowledge the contribution of the Nigerian Human Rights community for the continuous struggle for the protection, promotion, enforcement and accountability for human rights and justice for all in Nigeria.

INTRODUCTION

The National Human Rights Commission is established by the National Human Rights Commission (Amendment) Act 2010 (“the Act”) as an extra-judicial mechanism to promote and protect the human rights of everyone in Nigeria.

The specific statutory mandate of the Commission for the promotion and protection of human rights in the country in relation to the assessment of human rights are as follows -

- a) monitor and investigate all alleged cases of human rights violations in Nigeria and make appropriate recommendation to the federal government for the prosecution and such other actions as it may deem expedient in each circumstance;
- b) undertake studies on all matters pertaining to human rights and assist the Federal, State and Local Governments, where it considers it appropriate to do so, in the formulation of appropriate policies on the guarantee of human rights;
- c) publish and submit from time to time to the President the National Assembly, the Judiciary, State and Local Governments, reports on the state of human rights promotion and protection in Nigeria;
- d) maintain a library, collect data and disseminate information and materials on human rights generally;
- e) receive and investigate complaints concerning violations of human rights and make appropriate determination as may be deemed necessary in each circumstance;
- f) undertake research and education programmes and such other programmes for promoting and protecting human rights and co-ordinate any such programmes on behalf of the Federal, State or Local Government on its own initiatives or when so requested by the Federal, State or Local Government and reports concerning the enactment of Legislation on matters relating to human rights;
- g) carry out all such other function as are necessary or expedient for the performance of these functions under the Act.

Following the above mandate of the Commission, reports concerning the human rights situation have been published annually pursuant to the provisions of Section 5(c) of the Act which expressly requires it to publish and submit a publication on the state of human rights

protection and promotion in Nigeria to the President, the legislature, the judiciary and the state and local governments in Nigeria.

The previous publications d-rayed issues of fundamental rights recognized under Chapter 4 of the 1999 Constitution of the Federal Republic of Nigeria (as amended), as well as other thematic areas relating to rights not justiciable under Chapter 2 or any other part of the Constitution. But these other rights popularly recognized as economic, social and cultural rights that are not covered under Chapter 4 are by virtue of Nigeria being signatory to various international and regional instruments guaranteed and offer human rights protection to everyone in Nigeria.

The 2021 edition of the State of Human Rights Situation Assessment, although similar to the previous years' publications in form, yet offers information on the current state of human rights violations in the country. This update is necessary and in keeping with international human rights laws and global best practices in order to monitor human rights violation with a view to reducing them to the barest minimum and indeed eliminate them progressively.

It is in the light of the above that this book identifies areas for improvements and appropriate recommendations to the authorities in order to ensure that the rights of citizens and persons living in Nigeria are always guaranteed and protected.

EXECUTIVE SUMMARY

The National Human Rights Commission (NHRC) is established by the National Human Rights Commission (Amendment) Act, 2010 (“the Act”). The Commission is an extra-judicial mechanism for the promotion, protection and enforcement of human rights in Nigeria. Specifically, Section 6 (d) of the Act obligates the Commission to produce a document on the state of human rights in Nigeria.

Thus, the 2021 State of Human Rights Situation Assessment book is a compilation of the human rights situation in Nigeria for the year under review. The book presents broad coverage of issues/thematic areas as they pertain to complaints and media monitoring generated from the Commission’s Headquarters, and state offices. It is an evaluation of human rights situation in the country and seeks to highlight the gaps in the promotion, protection, enforcement and accountability for human rights in Nigeria. Further, the book makes recommendations to address identified patterns or trends militating against the protection, promotion, enforcement and accountability for human rights in Nigeria.

The book is divided into three parts and twenty-one chapters:

PART I : Civil and Political Rights

- i. Right to Life
- ii. Right to Dignity of the human person
- iii. Right to Personal Liberty
- iv. Right to Freedom of Expression and the Media
- v. Right to Freedom of Thought, Conscience and Religion
- vi. Right to Fair Hearing
- vii. Right to Freedom from Discrimination
- viii. Right to Family and Private Life
- ix. Rights to Peaceful Assembly
- x. Right to Acquire and Own Property

PART 2 : Economic, Social and Cultural Rights

- xi. Right to Health
- xii. Right to Education
- xiii. Labour Rights

PART 3 : Other thematic Areas

- xiv. Terrorism and Inter Communal Violence
- xv. Corruption

- dfi. Access to Justice and Independence of the Judiciary
- dfii. Sexual and Gender-Based Violence
- dfiii. Right of the Child
- dfd. Environment and Niger Delta
- ddf. Human Trafficking
- ddf. Election and Political Participation

Each chapter begins with an introduction of the thematic area, followed by conceptual definitions and the discussion on the laws backing the actualization of these rights. Equally captured are the opinions of the author of the chapter with complaints received and investigated by the Commission. Each chapter is concluded with recommendations on the way forward. Also, reports from the media on human rights violations are considered.

Worthy of note is the fact that the year under review raises issues that touch on violations of the rights of the child to development, protection and survival as well as Sexual and Gender Based Violence (SGBV), with a lot of complaints in these categories, each complaint revealing how children have become victims of domestic abuse, neglect and abandonment of parental care. This has caused untold discomfort to children leading to abuse of the Child's education, nutrition, health and parental attention.

This book further highlights complaints relating to Terrorism and Inter Communal violence, civil and political rights as well as Economic Social and Cultural rights, including rights of vulnerable people.

For the purpose of confidentiality and ease of reference, the following symbols are adopted in this report:

D- Female Complainant

Y- Male Complainant

DY-Third Party Complainant

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CHAPTER ONE RIGHT TO LIFE

By
Salome Loko*

Introduction

The right to life is widely recognized globally as an important right in a legal system. However, different jurisdiction recognises it differently, while it is an absolute right in some jurisdictions. The right to life however, is not absolute in some countries like Nigeria, limitations have been placed on this right.

Right to life is the belief that every being has the right to life and no person's life should be taken away by any entity including the government. It is considered the foremost and foundational right because it is based on this right that other rights not only rest but are interwoven and sustained.

The right to life assumes the existence and availability of all of certain basic factors such as health, food, shelter and education¹. For instance, for the right of life to be upheld in a society, there is the need for food which has to be produced by members of the society, all of whom should be alive and well. Hence, the right to life is linked to other rights such as the right to work, right to dignity of human person, right to freedom of association etc.²

This chapter discusses right to life within the Nigerian context, its legal framework and application. The chapter will also briefly discuss the limitations of the right as well as the author's position as to how the right can be applied and interpreted in the interest of a progressive society.

Conceptual Clarification Human rights

Human rights are those rights that cannot be alienated, a person has them simply because they are human, they are not a product of law but are rights from the moment a person is born and

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¹ S Uchegbu, 'The Concept of Right to Life Under Nigeria Constitution' J A Omotola (ed) in *Essays in Honour of Judge T. O. Elias* (1995) 136.

² *ibid.*

have their origin in the natural order of life and good conscience. According to Mendie,³ a human being acquires legal personality at birth and that legal personality is the instrument through which the law assigns capabilities and powers to human beings, i.e. a person who a legal right is bestowed in and owns

Human rights are universal, indivisible, interrelated and interdependent and they range from right to life, right to freedom of association and assembly, right to dignity of human person, right not to be subjected to cruel, inhumane and degrading treatment, right to food, right to basic health care, right to security and right to development amongst others.

The United Nations Fact Sheet 32⁴ defines human rights as:

universal values and legal guarantees that protect individuals and groups against actions and omissions primarily by State agents that interfere with fundamental freedoms, entitlements and human dignity. The full spectrum of human rights involves respect for, and protection and fulfilment of civil, cultural, economic, political and social rights, as well as the right to development.

It is to be noted that in recent time, there has been commonly accepted approach to classify human rights into generations. This classification comprised three tiers of human rights namely; first generation- civil and political rights, second generation- economic, social and cultural rights while the third generation comprised rights to peace, development, a safe and healthy environment, sufficient and safe food for all as well as the use of natural resources.

There is also an emerging proposition to have a fourth generation right pertaining to the rights to information technology. This classification is not provided in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

In Nigeria, human rights are protected and guaranteed under chapters 2 and 4 of the 1999 Constitution of the Federal Republic of Nigeria (as amended). These rights are also contained in several international and regional human rights treaties to which Nigeria is a party. Some of these treaties include International Covenant on Civil and Political Rights (ICCPR),

³ A Mendie, 'Status and Limit of Human Rights: Right to Life Under Nigerian Constitution 1999 with Focus on Rural Women in Akwa Ibom State' (2014) Mediterranean Journal of Social Sciences, 155 available at <<https://www.mcseser.org/journal/index.php/mjss/article/view/5288/5105>> accessed 21 April 2022

⁴ UN Office of the High Commissioner for Human Rights (OHCHR), Fact Sheet No. 32, Human Rights, Terrorism and Counter-terrorism, July 2008, No. 32, available at: <<https://www.refworld.org/docid/48733ebc2.html>> accessed 26 August 2022

International Covenant on Economic, Social and Cultural Rights (ICESCR), International Covenant on the Elimination of all Forms of Racial Discrimination (CERD), African Charter on Human and Peoples' Rights ("the Banjul Charter"⁵).

The right to life is a fundamental human right hence not just is it a human right that belongs to all human beings irrespective of their gender, nationality, caste, race, etc.

Right to life

The right to life, a first generational right, is the most important of all rights and no rights can be enjoyed without this right. From the earliest time the security of life has been recognized and emphasized and murder has always been punished to the extent that even suicide, the act of taking one's life by him/herself is undesirable, illegal and an attempt to do the same is punishable under the law of most societies.⁶ Further, due to the value attached to life and the sacredness thereof, some societies have moved to abolish the death sentence, hence rather than kill a murderous criminal he is viewed as a sick person who is to be cured, reformed and can become useful to the society.⁷

The right to life interrelates and is interdependent with other rights, the right to life hence cannot be compartmentalized for instance the right to personal liberty which is intended to allow a person to exercise his inner faculties devoid of hindrance, free from slavery or arbitrary arrest or detention presupposes the existence of life for the enjoyment of same. So also, is the right to freedom of thought and expression encapsulated in the right to life and any restriction to the right to thought and expression amount to a limitation to the right to life. Same applies to other rights such as freedom of conscience and religion, freedom from discrimination etc.

Under the 1999 Constitution of the Federal Republic of Nigeria Section 33(1) specifically provides for the right to life as follows:

Every person has a right to life, and no one shall be deprived intentionally of his life, save in execution of the sentence of a

⁵ The Banjul Charter is so named because it was adopted in Banjul, the Gambia in 1979. It emerged under the aegis of the Organisation of African Unity (since replaced by the African Union) and has been domesticated and forms part of Nigeria's organic laws as African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, CAP A9, Laws of the Federation of Nigeria 2004.

⁶ O Osumah Oarhe & S Enabunene, 'Women Trafficking and Biolations of Right to Life in Nigeria' Online Journal of Social Sciences, 64, <<http://www.onlineresearchjournals.org/JSS>>assessed 20th April 2022

⁷ A Agarwal, B Bhushan, B Bhagwan, *Principles of Political Science, (Fifteen Edition), New Delhi: R. Chand and Co. (1994).*

court in respect of a criminal offence of which he has been found guilty in Nigeria’.

The section imposes an obligation on the state and individuals not to deprive a person of his right to life except for reasons permitted by law. The obligation imposed by the relevant provision on Nigeria was illustrated in the case of *Bello v AG of Oyo State*⁸ where a convicted person was executed while his appeal was pending in court, the court held that the right to life imposes an obligation on the state not to take the life of a person even when the person has been convicted and sentenced to death in a lower court and an appeal is pending in another court, in this case, a court of appeal. The state is under the obligation to allow the law to run its complete course and not be hasty to execute the convict with an appeal pending.

Legal framework

The right to life is recognized globally and it is protected by both domestic, regional and international instruments, In Nigeria, the instruments applicable to protect right to life are diverse, they include conventions, treaties, charters and laws and case law. Find below some of these:

International instruments

The Universal Declaration of Human Rights (UDHR)

The United Nations Universal Declaration of Human Rights (UDHR) is singularly the most important reference point for discussions on human rights and dignity⁹ and from which other related documents stem. It states in article 3 that:

It was proclaimed on the 10th December 1948 for a common standard of achievement in the area of fundamental human rights for all the peoples and nations of the world. Article 3 states that; "*Everyone has the right to life, liberty, and security of person*".

Out of all the rights recognized in this declaration, the right to life has a special implication as it was in response to “the atrocities and barbarous acts which preceded its proclamation”¹⁰ i.e. the World War II (1939-1945).

⁸ *Bello v AG of Oyo State* (1986) 5 NWLR (Pt. 45) 828, (1986) 12 SC 1

⁹ Mary A. Glendon, *Knowing the Universal Declaration of Human Rights*, 73 Notre Dame L. Rev (1998) 1153
<<https://heinonline.org/HOL/LandingPage?handle=hein.journals/tnd173&div=51&id=&page=>> accessed 23 April 2022

International Covenant on Civil and Political Rights (ICCPR)

The ICCPR is a multilateral treaty adopted by the United Nations General Assembly on 16th December 1966, it is part of the international bill of rights and commits its parties to respect individual's civil and political rights such as the right to life, freedom of religion, freedom of assembly etc. Nigeria ratified the convention in June 1993.

Article 6 (1) International Covenant on Civil and Political Rights provides thus: *“Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life”*.

However, the right to life as contained in the article is not absolute as it allows for the right to be withdrawn and a death sentence imposed “for the most serious crimes”¹¹

Regional laws

The African Charter on Human and Peoples' Rights 1981

The African Charter on Human and Peoples' Rights is the main human rights instrument on the African continent. It establishes a framework or system for protecting and promoting human rights in Africa inside the framework of the now African union¹². It is the first regional mechanism that incorporates the different classes of human rights (Civil and Political Rights, Social, Economic and Cultural Rights, Individual and Collective Rights) in a single document. Right to life is emphasized in Article 4 of the instrument and it states as follows:

Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right.

¹⁰ G Bebilackua, 'The Right to Life at Sea Seventy Years after the Proclamation of the Universal Declaration of Human Rights' (2019) *EuropaEthnica*, 76 <https://elibrary.utb.de/doi/epdf/10.24989/0014-2492-2019-34-149> accessed 23 April 2022

¹¹ Article 6(2) ICCPR

¹² E OsaEkhaton, 'The Impact Of The African Charter On Human And Peoples' Rights On Domestic Law: A Case Study Of Nigeria' (2015) 41 *Commonwealth Law Bulletin*,

The African Charter guarantees this right to all humans without distinction as to race ethnic group etc. it however hints that a person can be deprived of these rights but not arbitrarily. Hence means that the right is limited under the due process of the law¹³

Domestic laws

The main law to be discussed in this regard is the 1999 Constitution of the Federal Republic of Nigeria (as amended). The 1999 Constitution recognizes the right to life. Section 33 provides as follows:

(1) Every person has a right to life, and no one shall be deprived intentionally of his life, save in execution of the sentence of a court in respect of a criminal offence of which he has been found guilty in Nigeria.

From the foregoing, the Constitution provides for the right to life however, the right is not absolute, but unlike the African charter, the Nigerian Constitution elaborately enumerates those circumstances where the right to life can be deprived. Subsection (1) states that the right to life can be taken away i.e. in the execution of a sentence of a court for a criminal offense where the person has been found guilty¹⁴. Therefore, this right can only be deprived upon proof of capital offenses which include:

- a. Murder provided for in armed robbery under the Robbery and Firearms (Special Provision) Act, 2004 and Section 319 of the Criminal Code Act, 2004.
- b. Treason provided for in the Treason and other Offences (Special Military Tribunal) Act, 2004 and
- c. Sabotage provided for in the Petroleum Production and Distribution (Anti-Sabotage) Act, 2004, with all offenses substantively and procedurally proved beyond a reasonable doubt under the relevant and applicable laws including the evidence act 2004¹⁵. This point was emphasized in the case of *Udosen v. the State*; where the court held that the “commission of a crime by a party must be proved beyond reasonable doubt”¹⁶

¹³ Mendie, (n 4) 156

¹⁴ Mendie (n 4) 155

¹⁵ Mendie (n 4) 156

¹⁶ *Udosen v State* (2007) 146 LRCN, P. 771 at 775

Subsections 2 (a)-(c) further enumerate other circumstances where this right can be intentionally taken away as follows;

- a. a person can justifiably deprive another of his right to life when he is exercising his right to self-defence or when defending another person under his care when there is unlawful violence, he can also justifiably deprive a person of his right to life when defending his/her property,
- b. the police and other security operatives can also legitimately deprive a person of his right to life in order to effect a lawful arrest on a person reasonably suspected to have committed a crime also when trying to prevent a person from escaping lawful detention and when suppressing a riot, mutiny or insurrection. This point is further emphasized in Section 24 of the Police Act, 2004 and Section 271 of the Criminal Code Act, 2004) where the police are permitted to deprive a person of his right to life in order to prevent him from absconding from lawful detention, in suppressing a riot, insurrection or mutiny.

It has been argued that for right to life to have real meaning, the provision that allows for the killing of a person in defence of property or a suspect who is resisting arrest should be reviewed¹⁷. In as much as it does make sense to think in that way, if these circumstances are viewed from the other angle where the escapee has himself committed a heinous crime that can be repeated again, it might be justified, so also in the circumstance of protection of one's property, I think the key and balancing factor is as provided in the test of reasonability, in *Musa v State*¹⁸ it was held that Section 33 of 1999 Constitution allowed for the use of such force as reasonably necessary in defence of a person from unlawful violence and for the defence of property as far as the force used is reasonably necessary for that circumstance. Other laws are: Sections 330 – 350 Criminal Code Cap C38 LFN 2004 and Section 220 – 231 Penal Code Cap P3 L.F.N 2004

From the foregoing it can be deduced that the Nigerian State is responsible for the development of a practical framework for the promotion, protection and fulfilment of right to life in Nigeria. It is also under the duty to prevent arbitrary deprivations of life. However, the African Commission on Human and People's Rights (African Commission) in the case of

¹⁷ M. A. Ajomo, (1992) 'Fundamental Human Rights under the Nigerian Constitution' in Akpangbo, C. ed. Perspectives on Human Rights. Lagos: Federal Ministry of Justice of Nigeria.

¹⁸ *Musa v State* (1993) 2 NWLR Pt 277, P 550 at 553.

*Sudan Human Rights Organisation & Another V Sudani*¹⁹, stated that the right to life contained in article 4 of the African Charter in its broad interpretation includes a positive obligation for governments to take proactive measures to protect citizens from outbreak of infectious diseases²⁰. Therefore, the right to life as guaranteed under the constitution does not only punish persons who deprive persons their right to life but also gives the state (Nigeria) the duty to prevent violation of this right. The duty to take proactive steps to exercise adequate due diligence or care to prevent occasions of loss of life within a jurisdiction rest on the state, even though as stated by Oduwole²¹ the violating act is not directly ascribable to the state for instance the importation of Ebola into Nigeria by Patrick Sawyer. The state is also under the duty to provide compensation to victims of such or other violations²²

Further to the above, according to Aduba²³ one of the major challenges to the right to life in Nigeria is the poor state of the Nigerian health sector. The poor leadership and widespread corruption plaguing the country have resulted in large-scale neglect and deterioration of public services hence making the country a hotbed for diseases and epidemics. Further, the tight and restrictive abortion laws in the country have caused women in need to resort to risky solutions usually from quack professionals who lack the medical expertise for such procedures, the result of which is high maternal rates.

Ethnic and religious conflicts, as well as activities of bandits, kidnappers, and insurgents, have posed a serious challenge to the right to life in Nigeria. On the other hand, activities of Security personnel have also amounted to challenges to the right to life in Nigeria. Police brutality in the form of extrajudicial killings, torture, and shooting of protesters as well as some military intervention aimed at suppressing dissent and insurgency.

¹⁹ *Sudan Human Rights Organisation & Another v Sudani* (2009) AHRLR 153 (ACHPR 2009) 146

²⁰ Jumoke Oduwole, 'The Rights to Life, Health and Development: The Ebola Virus and Nigeria' (2017) 17 *African Human Rights Law Journal*.

²¹ *ibid*

²² *ibid*

²³ J N Aduba, 'The Right to Life under Nigerian Constitution: the Law, the Courts and Reality', *S.M.A. Belgore Chair Series*, (Nigerian Institute of Advanced Legal Studies, 2011) 12-13, <<http://www.nials-nigeria.org>> accessed 26 April 2022

Some of the Complaints Received by the Commission on Right to Life are as Follows:

JG /2021/004

The Commission received a complaint dated 20th January, 2021 from DY of Hadejia Local Government Area of Jigawa State, alleging that on 19th January 2021 his brother was hit by a Police vehicle attached to the Hadejia Police Division, Jigawa State. DY also alleged that the victim sustained injuries during the process but was abandoned without any medical care.

C/2021/6814/PSO

The Commission received a complaint dated 28th June, 2021 from Y who resides at Kwang Jos South, Plateau State. Y stated that the respondent always violates his wife's right, who is his in-law. Y further stated the respondent also threatened to kill him and he fears for his life and that of his in-law.

C/2021/IMS/122/W&C

The Commission received a complaint dated 5th July, 2021 from DY of Imo state, alleging that the victim's husband and mother in-law who reside at Umuezoroke, Oforola, Owerri West L.G.A, in Imo State had been assaulting and beating her. DY further alleged that on 29th April, 2021 the two threatened the victim's life.

Media Report on Right to life

1. On 1st July, 2021 The Guardian Newspaper on page 5 reported that gunmen shot dead a member of the Zamfara State House of Assembly, Mohammed
2. Ahmed travelling from Zamfara base to Funtua Local Council. The House of Assembly Clerk, Saidu Anka, confirmed the incident.
3. On 1st July, 2021 The Guardian Newspaper on page 8 reported that unknown gunmen kidnapped eight workers at ceramic company in Kogi State. The workers were abducted while loading stones which is expected to be delivered in the ceramic site located in Ajaokuta.
4. On 1st July, 2021 Daily Trust Newspaper on page 7 reported that a 2021 press freedom report has revealed that the Nigerians media industry has recorded seven unresolved killings, 300 violations and abuses affecting about 500 journalists, media workers and media house since 2015.

5. On 1st July, 2021 This Day Newspaper on page 44 reported that a final year Political Science student of the University of Benin has been shot dead hours after writing his final exams. The student identified as Augustine Izu is said to have been killed after he was trailed to his off campus hostel located at 5, Image Street, Ugbowo, Benin-city.
6. On 2nd July, 2021 This Day Newspaper on page 11 reported that a police officer was shot dead and many injured during a bank robbery in Otun Ekiti, Ekiti State. The deceased was said to be a security guard attached to a new generation bank.
7. On 2nd July, 2021 The Guardian Newspaper on page 8 reported that the decomposing body of a soya milk seller who was missing, was found at a nearby airport flyover, her head and vital body parts were removed.
8. On 7th July, 2021 Daily Trust Newspaper on page 3 reported that at least 19 people have been killed and others missing after gunmen on motorbikes attacked Tsauwa village for the second time in Batsari Council Area of Katsina State. The attackers also burnt down many houses and carted away a large number of cattle and small ruminant animals.
9. On 8th July, 2021 This Day Newspaper on page 42 reported that gunmen suspected to be Boko Haram have killed 24 persons in Dabna, a farming community three kilometres away from Gahara, the home of the Secretary to the Government of the Federation (SGF), Mr. Boss Mustapha.
10. On 9th July, 2021 Daily Trust Newspaper on page 6 reported that the Nigerian Governor's Forum (NGF) says between May 2011 and February 2021, over 76,000 have been killed in the country. He said security situation in the country was also threatening the expression of the rights of all Nigerians.
11. On 9th July, 2021 Daily Trust Newspaper on page 6 reported that bandits have killed two officers of the Nigerian Immigration Service (NIS) in Katsina State. Sources said the officers were killed during an exchange of gunfire in the early hours of Thursday.
12. On 9th July, 2021 Daily Trust Newspaper on page 32 reported that five suspected members of Aiye and Eiye confraternities have been killed in different cult-related wars in Ijanikan, Lagos State.
13. On 12th July, 2021 The Guardian Newspaper on page 9 reported that gunmen have allegedly killed a village youth leader, Olori Odo in Ibadan.
14. On 12th July, 2021 This Day Newspaper on page 52 reported that a journalist and leader of the coalition of Gender-based Violence Responders, Lemmy Ughegbe, has filed a formal complaint against the Federal Capital Territory (FCT) Deputy Commissioner of Police (DCP), Mr Fom Pam Joseph, over alleged threat to his life and those to his life

and those of the members of his family, at the National Human Rights Commission (NHRC).

15. On 13th July, 2021 This Day Newspaper on page 35 reported that gunmen suspected to be bandits have invaded Makarau Jankasa community in Zango Kataf, Kaduna State, killing nine people. According to the report, the fresh attack was coming barely 72 hours after a similar attack on Warkan Community in the same local government area where nine people were also killed with twelve houses burnt down.
16. On 14th July, 2021 Daily Trust Newspaper on page 34 reported that one person has been killed in a clash between truck drivers and revenue collectors in Anambra State.
17. On 14th July, 2021 Daily Trust Newspaper on page 34 reported that a 200-level student of the Niger Delta University, Miss Jennifer Ugadu has been stabbed to death. Residents confirmed that she was found dead with multiple injuries in her room around the University host community in Amassoma on 13th July.
18. On 14th July, 2021 Daily Newspaper on page 10 reported that the Minister of Interior, Rauf Aregbesola, has said that 100 persons were killed across the country last year during the COVID-19 lockdown. He attributed the killings to frustration occasioned by job losses and the restriction of movement put in place to curb the spread of the deadly virus.
19. On 14th July, 2021 Daily Trust Newspaper on Page 4 reported that Air strikes by fighter jets belonging to the Nigerian Air Force targeted at bandits have claimed the lives of a woman and her four children at Subulu, in Zamfara State, multiple sources told Daily Trust.
20. On 14th July, 2021 This Day Newspaper on page 44 reported that a total of 222 people have been killed while 774 others have been kidnapped by bandits in Kaduna State in the past three months. This was confirmed by the Commissioner for Internal and Home Affairs, Mr. Samuel Aruwan in a report presented to Governor Nasir El-Rufai.
21. On 2nd August 2021, Daily Trust Newspaper at page 53 reported that four persons have been killed and many houses burnt in a clash between Fulani herders and Irigwe community in Plateau State.
22. On 2nd August, 2021 The Guardian at page 7 reported that one person has been killed in a renewed clash in Shasha market area of Ibadan. According to the report, the deceased, identified as Idris, was allegedly killed when a fresh crisis erupted in the early hours of Saturday in the area at page 8 reported that eighteen people, have been reportedly killed in attacks by bandits on five communities in Chawai chiefdom, Kaura Local Government

- in Kaduna. Daily Trust gathered that the attacks occurred on Monday morning in Kigom, Kikoba, Kishisho and Unguwn Magaji communités.
23. On 4th August, 2021 Daily Trust Newspaper at page 14 reported that a 40 year old man, Bangos Adams has been sentenced to death by hanging for killing his wife and a child. Report had it that Bangos had hit his wife on the head with an adé as a resulting of misunderstanding between them and hacking her child with a cutlass which led to their death.
 24. On 5th August, 2021 This Day Newspaper at page 27 reported that two suspected armed robbers habe been burnt to death in a mob action in Rimi billage of Sumaila local Gôvernment Area of Kano State. This Day gathered that two of the suspected armed robbers were apprehended by angry mobs while one escaped.
 25. On 5th August 2021, This Day Newspaper at page 50 reported that a 21-year-old man, Ekemini Otuakak in Akwa Ibom has been sentenced to death by hanging for armed robbery. Report had it that the condemned man had admitted taking part in the robbery of MI AMAN Pharmacy located in Uyo, in March last year.
 26. On 5th August, 2021 This Day Newspaper at page 50 reported that a Resident Pastor in Lagos, Bolanle Ibrahim, was yesterday night the 4th of August shot dead by a yet-to-be-identified gunman. Report had it that the incident occurred when the pastor was officiating at a child dedication.
 27. On 6th August, 2021 This Day Newspaper at page 50 reported that a gang of armed robbers on 4th August, in the eëening raided two commercial banks in Iree, Boriipe Local Gôvernment Area of Osun State, killing one police and resident as well as carting away an undisclosed amount of cash in the process.
 28. On 6th August, 2021 Daily Trust Newspaper at page 36 reported that eight persons habe been confirmed dead after flood wreaked habôc in 11 local gôvernment areas of Bauchi State. Report had it that the flood following a heaby downpour accompanied by a windstorm, destroyed 57 billages and displaced 567 people.
 29. On 10th August 2021, Daily Trust Newspaper at page 5 reported that a passenger was burnt alibe in Nkwogu, Ahiazu Mbaise Local Gôvernment Area of Imo State on Monday, 9th August. Report had it that the deceased was inside one of the three buses that were torched by mob suspected to be IPOB members.
 30. On 10th August, 2021 Daily Trust Newspaper at page 5 reported that at least two persons were killed in Nnewi, Anambra State when security operatibes clashed with hoodlums,

- who allegedly wanted to take advantage of the sit-at-home order by IPOB to rob unsuspecting members of the public.
31. On 10th August, 2021 Daily Trust Newspaper at page 6 reported that a Nigeria Custom Service patrol vehicle on Monday crushed seven persons to death, while 14 others were critically injured in Jibia, Katsina State.
 32. On 10th August, 2021 This Day Newspaper at page 37 reported that suspected cultist have killed two persons in Etim Ekpo, Akwa Ibom State over the weekend. The deceased, Nkereuwem and Effioyo Emmanuel, were said to be returning from night vigil organised by the New Church at Ikot Ese Billage in the Local Government.
 33. On 12th August 2021, Daily Trust Newspaper at page 29 reported that a magistrate court in Osogo, Osun State, has ordered the remand of two herbalist and four others at the Correctional Centre in Ilesa for allegedly killing a 35 year old man, Ayoade Fasesan for ritual.
 34. On 13th August, 2021 Daily Trust Newspaper at page 31 reported that officials of the Bauchi State Emergency Management Agency (SEMA) have confirmed the recovery of additional five dead bodies from devastating floods that ravaged the state recently, bringing the total number of deaths to 13.
 35. On 16th August, 2021 Daily Trust Newspaper at page 7 reported that five people were reportedly killed, another five injured in an attack on Madamai community in Kaduna State. Eye witness who escaped gunshots told Daily Trust that the attackers invaded the community in numbers around 5:00 am and started shooting sporadically.
 36. On 16th August, 2021 The Guardian Newspaper at page 8 reported that Oladunni Adebiori, a mother has urged Ondo State Police Command to unravel the cause of death of her six-year-old daughter, Esther Ajijolaoluwa whom the father claimed died earlier in the month. It was reported that Adebiori suspected that her daughter must have been used for ritual purposes by her ex-husband, Mr. Raphael Ajijolaoluwa.
 37. On 17th August, 2021 Daily Trust Newspaper at page 52 reported that five people died while two others still missing after flood water wreaked havoc in Potiskum, Yobe State. The Executive Secretary of the State Emergency Management Agency (SEMA), Dr Mohammed Goje confirmed the development.
 38. On 18th August, 2021 The Guardian Newspaper at page 9 reported that one person was allegedly killed; vehicles destroyed and shops set ablaze when two rival cult groups, Eiye and Aiye clashed on Monday night around Mushin area of Lagos State. Report from Lagos State Fire and Rescue Service Command had it that only shops were burnt.

39. On 18th August, 2021 Daily Trust Newspaper at page 13 reported that a fresh attack at Atuka billage in Atyap chieftdom of Zango Kataf Local Government Area, Kaduna State, claimed the life of a boy. Report had it that the attack left one person injured while a house and four vehicles were burnt.
40. On 19th August, 2021 This Day Newspaper at page 6 reported that gunmen suspected to be herders have again attacked Bassa Local Government Area in Plateau State, killing five persons, despite the curfew.
41. On 10th September, 2021 Daily Trust Newspaper at page 44 reported that bandits fleeing military onslaught in Zamfara State had killed six persons and abducted several others in Tureta Local Government Area of Sokoto State. Report had it that those injured by the marauders were receiving treatment in the hospital.
42. On 10th September, 2021 This Day Newspaper at page 44 reported that the Nigeria Union of Journalist (NUJ), Kogi State Council, has condemned the gruesome murder of a Nigeria Television Authority (NTA) staff member, Chukwu Obiahu, in Okene, Kogi State.
43. On 10th September, 2021 The Guardian Newspaper at page 9 reported that a pregnant woman had been beaten to death by her husband at Uburu-ekwe Street, Ogwuagor Abakpa Nike, Enugu.
44. On 13th September, 2021 Daily Trust Newspaper at page 28 reported that an unidentified corpse of a middle-aged man was found a few meters away from a checkpoint near Abaji, along Abuja-Lokoja Road.
45. On 13th September, 2021 Daily Trust Newspaper at page 38 reported that Operative Safe Haven (OSH), a multi-security taskforce maintaining peace in Plateau State, confirmed the report of killing of a taxi driver, Abubakar Abdullahi Karafa, by its personnel in Jos.
46. On 13th September, 2021 This Day Newspaper at page 60 reported that an 18-year old girl, Monsurat Ojuade, had been killed during a raid by police officers at Ijesha adis of Surulere in Lagos.
47. On 14th September, 2021 Daily Trust Newspaper at page 36 reported that four bodies are said to have been recovered after a flood-ravaged Trade more Estate, Lugbe, a suburb of Abuja Metropolis. Several others were missing, cars, motorcycles and household items were washed away.
48. On 14th September, 2021 This Day Newspaper at page 12 reported that eleven people had been killed following an attack by suspected Fulani herdsmen on Apiyejim-Kibori community, Kaduna State. Report had it that the attack came less than 24 hours after the

- murder of Rev. Silas Yakubu Ali, a pastor of the Evangelical Church Winning All (ECWA) in the same community.
49. On 15th September, 2021 The Guardian Newspaper at page 1 reported that as the Indigenous People of Biafra (IPOB) struggle to dissociate itself from sit out home protest, unknown gunmen invaded the parsonage of an Anglican priest, killing Rev. Emeka Merenu in Imo State.
 50. On 15th September, 2021 The Guardian Newspaper at page 5 reported that bandits stormed the Zaria home of a lecturer and killed one of the soldiers trying to rescue his wife, children and other natives from kidnappers.
 51. On 17th September, 2021 Daily Trust Newspaper at page 6 reported that at least five people had been allegedly killed in two separate clashes involving rival cult groups in Benue State.
 52. On 17th September, 2021 Daily Trust Newspaper at page 29 reported that following the Tuesday killing of Alhassan Alhassan, a vigilante commander in Kogi State, members of the vigilante group reinforced back to the forest and killed 11 bandits and rescued two abductees.
 53. On 20th September, 2021 Daily Trust Newspaper at page 10 reported that at least three policemen had been killed at Ukaegbu/Ezeiweka road in Onitsha, Anambra State.
 54. On 20th September, 2021 Daily Trust Newspaper at page 6 reported that bandits had attacked another village in Tangaza Local Government Area of Sokoto, killing six people, including two married women.
 55. On 20th September, 2021 The Guardian Newspaper at page 4 reported that gunmen attacked the Evangelical Church Winning All (ECWA) at Kogi State, killing a worshipper and abducting three others.
 56. On 20th September, 2021 This Day Newspaper at page 61 reported that three policemen were killed by gunmen in Onitsha. Sources said that two persons identified to be civilians sustained bullet wounds in the attack.
 57. On 22nd September, 2021 Daily Trust Newspaper at page 6 reported that four persons died in an accident that happened along Sakpoba road in Benin city.
 58. On 23rd September, 2021 The Guardian Newspaper at page 7 reported that gunmen attacked the police at a checkpoint in Nachi, Enugu State, killed two police personnel and took away their rifles.
 59. On 24th September, 2021 This Day Newspaper at page 42 reported that attempt by police operatives at the Ajao Estate area of Lagos to impound some commercial

motorcycles was met by stiff resistance as the riders popularly known as Okada went berserk, killing two officers with others injured.

60. On 28th September, 2021 This Day Newspaper at page 1 reported that bandits slaughtered 34 people, including a family of 13, following attacks on Madamai and Abun communities in Kaduna. Report had it that 8 persons sustained various degrees of injury, while the terrorist burnt down about 20 houses.
61. On 28th September, 2021 This Day Newspaper at page 16 reported that gunmen attacked some APC members in Nnewi North Local Government Area of Anambra state killing one of its members. It was also gathered that several other members of the party who were in the meeting sustained varying degrees of injury as a result of the attack.

Conclusion

The concept of security of human life is not specific to any single human culture but is a universally recognized concept and its value is legally recognized. The right to life is the fundamental right that other human rights depend on and is the first step in protecting all other rights of a human person.

Under some provisions, the right to life is absolute. However, in Nigeria, the 1999 Constitution in recognizing the right to life enumerates circumstances where this right can be legally derogated. The interpretation and application of the concept of right to life should be positive, section 14(2) of the Constitution, recognizes the right and duties of the government (both State and Federal) to protect the lives of Nigerians, and also to take deliberate steps to protect lives.²⁴ The major question to be asked is if the government has been fulfilling its obligations in this respect. Poor health care, prison congestion, ethnic and religious conflicts, banditry, and negative activities of security personnel are some of the challenges to the right to life in Nigeria.

Recommendation

The Right to life as guaranteed under section 33 of the 1999 Constitution does not define the meaning and content of life, this is permissible as it is not expected that a constitutional document will cover all details, it is then the duty of the courts to give flesh to the document in a way that advances the intention and purpose of the drafters. Therefore, in Nigeria just like in other jurisdictions,²⁵ the courts should interpret the right to life to include implicit

²⁴ Ibid (n30)

²⁵ ibid

aspects which have been hitherto put in the realm of unenforceability such as social and economic rights. This will serve to regularize the expansive interpretation of the right in the other facets of society and among national stakeholders.

There is no gainsaying the fact that the government is the biggest actor when it comes to the full enjoyment of the right to life of its citizenry. Therefore, any recommendation on how this right might be more fully enjoyed is tied to the government living up to its primary responsibilities.

Illiteracy and poverty play significant roles in the security crisis rocking the country presently as these bandits and other unscrupulous elements are mostly made up of persons that fall within this group. Increased and improved access to education, employment opportunities, and provision of basic infrastructure (like good roads, health care, etc) will go a long way to improve the standard of living as well as support economic activities for poverty alleviation and eradication.

The reorientation of the military, police, and other security operatives as well as the improvement of their condition of service will greatly improve the relationship between them and the civil population.

CHAPTER TWO

RIGHT TO DIGNITY OF THE HUMAN PERSON

By

Damilola I. Decker*

Introduction

An appreciation of the Right to Dignity of a Human Person is intrinsically tied to an understanding of the principle of human rights itself. This relationship is better appreciated when one examines several definitions of the phrase "human rights". One of such definitions is that Human rights are the basic rights and freedoms that belong to every person in the world, from birth until death.¹ These rights are to be protected regardless of where one hails from, what one looks like, what one believes or how one lives his or her life. These basic rights are based on shared values like dignity, fairness, equality, respect and independence.² It is the belief that every human being is inherently worthy and should accordingly be treated with respect and dignity that imbues every person with basic human rights. The appreciation of this key principle is central to all human interactions in a civilized society.

The United Nations and other International Organisations that have sought to codify the basic principles of human rights appreciate the nexus between dignity, worthiness and human rights. Stemming from this understanding, the United Nations General Assembly provided in its guidelines for new human rights instruments that such instruments should be '*of the fundamental character and derive from the inherent dignity and worth of the human person*'. Other core international human rights treaties have borrowed from this and adhere to the same principle. These treaties include the Convention on the Rights of Children 1989, Convention on the Rights of Persons with Disabilities 2007, the United Nations Resolution on the Right to Food 1998, the United Nations Convention against Torture, Cruel, Inhuman and Degrading Treatment or Punishment 1984 amongst many others.

This Chapter seeks to aid the reader's appreciation of the relevant concepts that have birthed the right to the dignity of the human person. The chapter will also examine the key legal

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¹ 'What Are Human Rights? | Equality and Human Rights Commission' (*Equalityhumanrights.com*, 2022) <<https://www.equalityhumanrights.com/en/human-rights/what-are-human-rights>> accessed 8 August 2022.

² *ibid*

instruments that make the right to dignity of a human person available for the enjoyment of Nigerians and finally, it will discuss the role the National Human Rights Commission is currently playing in ensuring the full enjoyment of this right.

Conceptual Clarification/Definitions

Dignity

An understanding of what "dignity" means is essential to appreciate why it is a core concept in any discussion of human rights. "Dignity" has its roots in the Latin word *dignitas* which means "worthiness".³ Human dignity is the recognition that human beings possess a special value intrinsic to their humanity and are therefore worthy of respect simply because they are human beings. This concept is foundational to ethical reflection in diverse areas of engagement ranging from social ethics to human rights.⁴ It is on this foundational premise that the Universal Declaration of Human Rights leans when it states that all human beings be treated as being **"equal in dignity and rights"**.⁵ The dignity or worthiness of a person is so fundamental and foundational that there is no justification for stripping anybody of it or treating any person like they're undeserving of it. No circumstance, race, sex, religion or disability should stand in the way of the acknowledgement of a person's dignity or worthiness.

Human rights

Human rights, in general, are inherent in all human beings, irrespective of nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. Kayode Eso J.S.C in *Ransom Kuti v Attorney General of the Federation*⁶ stated that 'a fundamental right is a right which stands above the ordinary laws of the land and which is antecedent to the political society. It is a precondition to a civilized existence'. The fundamental rights so described by the learned jurist are based on shared values like dignity, fairness, equality, respect and independence and are regularly protected as natural and legal rights in local and international law. These rights are also interrelated and interdependent. Their interdependence is illustrated by the fact that there exists a basic right to Life that can

³ C. Ahgware: *The State of Human Rights Report* (National Human Rights Commission 2018)

⁴ 'Human Dignity | The Center for Bioethics & Human Dignity' (*Cbhd.org*, 2022) <<https://cbhd.org/category/issues/human-dignity#:~:text=Human%20dignity%20is%20the%20recognitionbecause%20they%20are%20human%20beings>> accessed 8 August 2022.

⁵ Universal Declaration of Human Rights, Article 1

⁶ (1985) 2 NWLR (Pt 6) 211

only be maximally enjoyed when the human being who has a right to life also enjoys the right to food, shelter, clean water and a safe environment.

Human rights cover the full range of the human experience. They pertain to all aspects of life. Their exercise enables all individuals to shape and determine their own lives in liberty, equality and respect for human dignity. Human rights encompass civil, political, economic, social, and cultural rights, as well as the collective rights of peoples.⁷ There can be no exclusion of human rights in any aspect of the human journey. This informs the need for Governments and other duty bearers to carry out their obligation to respect, protect and fulfil human rights.

It's pertinent to note here that the possibility to press claims and demand redress differentiates human rights from the precepts of ethical or religious value systems. From a legal standpoint, human rights are the sum of individual and collective rights recognized by sovereign States, enshrined in national legislation and international human rights covenants.⁸

Legal Framework

The Legal regime that guarantees the protection of the right to dignity of a human person is clear and exhaustive. This regime comprises instruments that have International, Regional and Domestic flavour.

International and regional

Nigeria is a state party to a plethora of International Treaties and Laws that serve as a legal framework to protect the right to the dignity of the human person of her citizens. The import of being a state party to these international human rights instruments is that the state who executed a treaty is expected to do everything within its means to ensure the protection and promotion of these rights. The primary international human rights instrument is the **Universal Declaration of Human Rights**, which provides unambiguously in **Article 1** that:

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood”

⁷ Office of the High Commissioner United Nations Human Rights, Handbook for Parliamentarians, No 26 (2016)

⁸ ibid

Building on the foundation laid down by the United Nations in the Universal Declaration, other international instruments equally provide for the protection of human worthiness. These instruments include the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic Social and Cultural Rights (ICESCR), the International Convention on the Elimination of All Forms of Racial Discrimination, Convention on Elimination of all Forms of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child (CRC), the Convention against Torture Cruel, Inhuman and Degrading Treatment or Punishment (CAT). There is also the African Charter on Human and Peoples' Rights (ACHPR) which provides in **Article 5** that:

Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited

Domestic legislation

There is also an emphatic recognition of the right to dignity of the human person in laws passed by the Nigerian legislature beginning with the Nigerian grundnorm itself. Section 34 of the 1999 Constitution of the Federal Republic of Nigeria as amended, provides "*every individual is entitled to respect for the dignity of his person*". It goes on further to state that no person shall be subject to torture or to inhuman or degrading treatment, acts of slavery and serfitude as well as forced or compulsory labour.

The Nigerian legislature has also passed the Anti-Torture Act, in 2017. The Anti-Torture Act is a law that has as its foundational principle, the understanding that all human beings are entitled to be treated with the utmost dignity and respect. This is evidenced by the fact that the Act expressly criminalizes torture and forbids it under any circumstance.⁹ The Act goes further to spell out patterns of conduct that degrade the dignity of a human being before classifying that conduct as torture. These include physical harm, force, violence, threat, intimidation or other acts that impair the free will of all persons including suspects, detainees and prisoners.

⁹ Anti-Torture Act 2017, s3

Other domestic laws that also seek to protect human dignity by prohibiting torture, cruel, inhuman and degrading treatment and also impose punishments for carrying out these acts include the Administration of Criminal Justice Act 2015 (Some state Governments have domesticated some version of this law), Violence Against Persons Prohibition Act 2015, Evidence Act 2010, Nigerian Correctional Service Act 2019, The Nigerian Police (Establishment) Act 2020, the Child Rights Act (2003) and several Child Rights Laws of the different States. There's also the Terrorism (Prevention) (TPA) Act, 2011 as amended, Legal Aid Council of Nigeria (Amendment) (LACON) Act, 2012; the Discrimination Against Persons with Disabilities (Prohibition) Act 2018, The African Charter on Human and Peoples Rights (Ratification and Enforcement) Act CAP A9, Laws of the Federation of Nigeria (LFN) 2004.

We will not forget to mention the National Human Rights Commission (NHRC) Act, 2010 as amended which guides the operation of the National Human Rights Commission in Nigeria. The Act while setting out the functions of the Commission enables it to:

deal with all matters relating to the promotion and protection of human rights guaranteed by the Constitution of the Federal Republic of Nigeria, the United Nations Charter and the Universal Declaration on Human Rights, the International Convention on Civil and Political Rights, the International Convention on the Elimination of all Forms of Racial Discrimination, the International Convention on Economic, Social and Cultural Rights, the Convention on the Elimination of all forms of Discrimination Against Women, the International Convention on the Elimination of all forms of Racial Discrimination, the Convention on the Rights of the Child, the African Charter on Human and Peoples' Rights and other international and regional instruments on human rights to which Nigeria is a party¹⁰.

Dignity of the Human Person and UN Sustainable Development Goals

The 2030 Agenda for Sustainable Development which is commonly known as the Sustainable Development Goals are worldwide aspirations adopted in September 2015 at the U.N. General Assembly. Among the 17 goals are ending poverty, ensuring healthy lives and taking

¹⁰ National Human Rights Commission Act 2010 as amended, s5(a)

urgent action to combat climate change.¹¹ At the heart of these aspirational goals lies deep regard for the protection of the inherent dignity of the human person.

The Seventeen (17) SDGs are all geared towards helping the individual reach his or her maximum potential while ensuring that others in the immediate community, as well as the environment, are not negatively affected by his or her attempts to do so. When the concepts that form the core of these goals are applied to real-life situations, everyone stands to benefit.

The Right to the Dignity of the Human Person: The Role of the National Human Rights Commission

It is no longer contestable that the right to dignity of a human person along with rights to life and personal liberty is one of the most endangered fundamental rights in Nigeria. Whether in the home, at work, on the road or anywhere else, Nigerians are daily subjected to violations of the rights to dignity of the human person, especially in the hand of state security operatives, such as the Nigerian Police Force, Nigerian Security and Civil Defence Corps (NSCDC), the Nigerian Navy, the Nigerian Army and the Department of State Security (DSS). Daily in Nigeria, there are gory and sad tales of torture, cruel, dehumanizing and degrading treatments meted out on innocent Nigerians by officers and men of security agencies. These violations are widespread to the point that it is difficult to accept that there is still the right to dignity of the human person in Nigeria.¹²

The National Human Rights Commission (NHRC), a statutory body empowered by law to oversee the promotion, protection and enforcement of human rights regularly receives complaints that are focused on alleged breaches of the right to the dignity of a human person primarily at the hands of state actors like the law enforcement and security agencies. A significant portion of the complaints the Commission receives in its state offices is focused on such alleged breaches. The Commission is also empowered to take up human rights-related matters *suo moto* and occasionally does so.¹³ It would be grossly unfair to say that only State actors are violators of this right. Social and traditional media platforms these days are inundated with stories of domestic servants commonly called "*house boys or girls*" who

¹¹ Jean F. Duffand Helena Manguerra, 'Dignity of the Human Person is Central to UN Sustainable Goals' (2016) Catholic Health Association Of The United States <<https://www.chausa.org/publications/health-progress/article/september-october-2016/dignity-of-the-human-person-is-central-to-un-sustainable-goals>> accessed 18 April 2022

¹² N Akani & OBC Okene, 'Human Dignity and Human Rights: The Nigerian Question', (2019) Bol 17Maiduguri Law Journal, 196.

¹³ Section 5(o), National Human Rights Commission Act 2010 as amended.

life under slavery-like conditions at the behest of a private individual. While this is certainly a concern, the frequency of the reported complaints of torture at the hands of law enforcement officers and security agencies has occasioned the Commission to set up public hearings from time to time. These public hearings which provide an opportunity for the victims to seek redress also shine a dazzling light on what ordinary Nigerians usually experience when they have an encounter with law enforcement. For example, the Commission held a public hearing on police abuses in Nigeria in 2017 in partnership with Human Rights Law Services. Premium Times newspaper documented the testimonies of some of these victims of police abuse.¹⁴

More recently, in the aftermath of the #ENDSARS protests which were inspired by a social media campaign to end the notorious now-defunct Special Anti-Robbery Squad (SARS) of the Nigerian Police Force, the Commission set up a panel to investigate human rights violations from SARS and other units of the Police Force. That critical work is now concluded and compensation paid to some persons whose rights have been violated. The Commission has also advocated for the promotion and protection of the rights of detainees when it acts on its statutory mandate to visit places of detention/custodial facilities nationwide to ascertain the living conditions therein.¹⁵ This advocacy is premised on the Commission's firm belief that conflicts and criminal suspects be treated with the utmost regard for their dignity even as they pay their debt to society for their crimes.

In addition to this, the Commission is aware that an effective human rights campaign cannot be achieved solely through the development of protective laws or the establishment of mechanisms to implement those laws so it engages in a series of educational and public enlightenment programmes to raise public awareness on human rights issues. The Commission regularly holds workshops, seminars, conferences and interactive sessions with relevant stakeholders in attendance. The Commission has also engaged in continuous media advocacy and periodic publications aimed at disseminating appropriate human rights messages. Sensitization, education and enlightenment programmes have also been carried out in collaboration with NGOs and CBOs, to raise awareness of human rights throughout the country.¹⁶

¹⁴ B Ezeamalu, 'How Nigeria Police Force Tortured' Edtorted Harassed US - Victim' *Premium Times* (Lagos, 1 November 2017) <<https://www.premiumtimesng.com/news/headlines/248017-nigeria-police-officers-tortured-edtorted-harassed-us-victims.html>> accessed 19 April 2022

¹⁵ C Ahgware (n 4)

¹⁶ N Akani & OBC Okene (n 13)

Some of the Complaints received by the Commission on right to Dignity of the Human Person are as Follows

C/2021/007/ADSO

The Commission received a complaint dated 19th January, 2021 from Y of Ngurore KarlahiFufore LGA, Adamawa State alleging that a local bigilante group, on 7th February, 2020 arrested him and his brother. Y further alleged that they were taken to the bush, tied and beaten on the allegation that they were kidnappers. Y further alleged that they were thereafter taken to the State Criminal Investigation Department (CID) and detained for 6 days without being charged to court

GSO/C/20201/001

The Commission received a complaint dated 4th January, 2021 from DY alleging assault by an Army Officer on his client for having a relationship with the Officer's girlfriend at Gombe State.

BSO/MDR/C/638/2021

The Commission received a complaint dated 7th June, 2021 from Y of Jere, Bauchi State, against Officers of Jere Police Station alleging that police from the station had arrested him and tortured him while in detention based on an allegation of theft.

C/BAU/2021/247

The Commission received a complaint dated 18th April, 2021 from DY of Rinji, Toro LGA alleging that sometime in April 2021, officers of the Nigerian Army brutalized one Y at Rinji, Magama Rimin Zayyan, Toro LGA, Bauchi State against Jere Police Station alleging that police from the station had arrested him and tortured him while in detention based on an allegation of theft.

C/2021/IMS/112/W&C

The Commission received a complaint dated May 8th, 2021 from DY of Imo State alleging that on 6th April, 2021 at Umuayalu, Egbu, Owerri North L.G.A, Imo State, a young teenage girl was abused and assaulted by her Aunty.

GSO/C/2021/065

The Commission received a complaint dated 12th April, 2022 from D against Y, her husband. D alleged inhuman treatment and abandonment by her husband. D further alleged that her

husband usually ensures that he inflicts injuries on her body whenever he beats her.

GSO/C/2021/276

The Commission received a complaint dated 22nd September, 2022 from D alleging physical violence and harassment from Y, her husband. D complained that Y beats her on several occasions and that when she reported the matter to her parents who sought to intervene, he assaulted her parents during the process of mediation

NHRC/NGSO/2021/010

The Commission received a complaint dated 15th January, 2021 from D who resides at Bida, Niger State, against her father Y. D alleged that, in December 2020, her father sought to forcefully marry her out and that her refusal caused her to be subjected to all manner of physical abuse including chaining her so as to compel her to change her mind.

Media Report on Dignity of Human Person

1. On 2nd July, 2021 The Guardian Newspaper on page 8 reported that the Lagos State Police Command has arrested one Biola Idris for physically assaulting his wife and inflicting grievous bodily injuries on her.
2. On 5th July, 2021 This Day Newspaper on page 49 reported that three police officers were injured in Akwa Ibom State when gunmen attacked the Divisional Police Headquarters in Udung Uko Local Government Area of the State. The three policemen sustained the injuries during exchange of gunfire with the hoodlums.
3. On 8th July, 2021 The Guardian Newspaper on page reported that the Lagos State Government has arraigned one Mrs. Rasheedat Adeleke before a magistrate's court for allegedly assaulting her 29-year-old Sales Lady, Miss Bukola Akinola and inflicted injuries by pouring hot water on her.
4. On 13th July, 2021 The Guardian Newspaper on page 13 reported that a human rights advocacy group, the Rule of Law and Accountability Advocacy Centre (RULAAC) and police authorities in Umuahia have disagreed over alleged inhuman treatment meted out to junior officers under their command by some senior police officers.
5. On 13th July, 2021 The Guardian Newspaper on page 31 reported that a Coalition of Civil Society Organisations (CSO's) has called on the Nigerian Government to live up to its responsibility by ensuring effective and efficient implementation of the laws on

torture. They noted the need to focus on prevention, protection, accountability and access to justice for torture victims and provision of requisite rehabilitation services to victims/survivors of torture.

6. On 29th July, 2021 Daily Trust Newspaper on page 10 reported that a 48-year old man, Igbo Thomas, has been remanded at the Awka Correctional Centre, Anambra for allegedly defiling his three daughters. The suspect, who reportedly confessed to the crime, blamed his action on the influence of alcohol.
7. On 30th July, 2021 The Guardian on page 4 reported that there are at least 1.4 million victims of human trafficking in Nigeria living under coercion, exploitation and humiliation. The International Organisation for Migration (IOM) chief of mission in Nigeria, Franz Celestine, said that Nigeria being the country of origin, transit and destination, has some of the highest number of persons who have been subjected to very inhuman treatments.
8. On 30th July, 2021 This Day Newspaper on page 45 reported that a lecturer at Nnamdi Azikiwe University, Anambra State would face disciplinary panel for allegedly flogging a female undergraduate of the school which left her body swollen and bleeding with injuries for not wearing a prescribed uniform.
9. On 21st September, 2021 Daily Trust Newspaper at page 20 reported that a 23-year-old housewife, Firdausi Suleiman dragged her husband, Haruna before a Shariah Court in Kaduna on the ground that he beats her and says she eats too much.
10. On 21st September, 2021 Daily Trust Newspaper at page 25 reported that the defence counsels to the eight suspects standing trial for murder of a University of Ilorin student, Olajide Blessing, had accused the DSS of torturing their clients to extract confessional statements.
11. On 24th September, 2021 This Day Newspaper at page 43 reported that the Nigerian Army denounced the dehumanisation of a corps member by an army officer in Calabar. A statement issued by the Army Spokesman, Brigadier General Onyema, said the conduct of the officer was an embarrassment to the Nigerian Army.
12. On 8th October, 2021 The Guardian Newspaper at page 13 reported that Nollywood veteran actor, Chiwetelu Agu had been beaten and arrested by soldiers in Onitsha, Anambra State for wearing an outfit made from the Biafran flag.
13. On 11th October, 2021 Daily Trust Newspaper at page 10 reported that Kwara State Government suspended the head of a madrasah, Misbaudeen Al-Islamiy Arabic School, Ganmo over the flogging of some students for attending night party. Report

had it that the issue caused serious concern in the state when a video showing one of the female students being flogged by five students went viral.

14. On 25th October, 2021 Daily Trust Newspaper at page 40 reported that a soldier whose name cannot be confirmed from 22 Armoured Brigade of the Nigerian Army, Sobi Cantonment, Kwara State, had beaten a female nurse to the extent of breaking one of her legs. Report had it that the trouble started when the nurse asked them to buy delivery packs upon admitting the soldier's wife into the labour room.
15. On 5th November, 2021 Daily Trust Newspaper at page 38 reported that gunmen stormed Ahun Community in Oro Ago in Kwara State and rustled 15 cows after attacking a Fulani herder, Muhammadu Bello, and leaving him unconscious.
16. On 16th November, 2021 This Day Newspaper at page 5 reported that participants at a human rights training program for journalists had called on the Federal Government to do more to uphold human rights of Nigerians, and to help in the current push to stop the use of torture by its security agents.

Conclusion and Recommendations

This chapter has attempted to discuss human dignity and human rights as well as the unbreakable marriage between both concepts and the important role international, regional and domestic instruments play in aiding the promotion and protection of the right to the dignity of the human person in Nigeria. There has also been an examination of the fact that the right to dignity of the human person was a major tenet used in creating the Sustainable Development Goals and the maximum enjoyment of this right will be a key indicator used in gauging efforts to achieve the SDGs.

Although the right to dignity of a human person is thoroughly rooted in the Nigerian Constitution, this chapter has also sought to shine a light on the fact that the scope and enjoyment of the right and others like it have always been limited in practice, even in our current democratic dispensation. This is owing to several factors. Chief among them is the ignorance of the Nigerian populace at large and law enforcement, especially, of the most basic human rights principles. The average Nigerian is not aware of the rights he or she is afforded by the Constitution or other legislation like the Anti-Torture Act 2017, which makes it illegal for law enforcement officers to carry out acts of torture. The position of the law makes it extremely farcical and upsetting that law enforcement in Nigeria seems to have adopted the savage practice of torture as the sole weapon in their investigative toolkit.

Premised on this foundation, the chapter recommends that the drive for more human rights education needs to be energized and expanded in both formal and informal forums. The Commission has been alive to its responsibilities in this area, but can and must do more. The Nigerian Government as a signatory to a host of International Instruments that affirm human rights should adopt an anti-impunity posture in its dealings. The Government should send out a message in its words and actions that it stands unwaveringly for human rights and that it is not just signing treaties to pay "lip service" to them. In addition to this, there needs to be more training for officers of Law Enforcement and Security agencies on human rights. An understanding of basic human rights principles and their application to everyday life should be a course that is taught to Police and Armed Forces recruits.

Finally, the chapter also recommends that law enforcement officers who are alleged to have violated the rights of their fellow countrymen by torturing them be prosecuted. The Office of the Attorney-General must be alive to its responsibilities as provided for in the Anti-Torture Act 2017 should see to this and bring more accountability to the process of conducting criminal investigations and serve as a deterrent to others.

CHAPTER THREE

RIGHT TO PERSONAL LIBERTY

By

Kabiru Aliyu Elayo*

Introduction

Personal liberty consists in the power of locomotion, of changing situation, or removing one's person to whatsoever place one's own inclination may direct; without imprisonment or restraint, unless by due course of law.¹ From this important pedestal, the right to personal liberty is critical and therefore interrelated to the enjoyment of other human rights. Thus, the arrest or detention of an individual must be in accordance with the law.² This right which is protected by regional, international and domestic human rights instruments, protects the individual against the excesses of the government and law enforcement and security agents.

The challenge to the guarantee of the right to liberty in Nigeria is that law enforcement and security agents, in disregard to human rights norms, keep persons in detention without authority from the judicial arm of government.

Conversely, there is an important intersection between the exercise of the right to personal liberty and the limitations thereto. Thus, the right to personal liberty does not guarantee that a person should behave indiscriminately; it presupposes that in exercising the right to liberty, a person should also consider the rights and freedom of others.

This chapter seeks to discuss the right to personal liberty as guaranteed by both international and regional human rights instruments. It will define some concepts and discuss the domestic protection of the right to personal liberty in Nigeria and conclude.

Conceptual Clarification/Definition

Human Rights

In order to appreciate the discussion on the right to personal liberty, the chapter shall attempt to define human rights and personal liberty.

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¹ W Blackstone, *'Amendment IX- Commentaries 1:120-41'* available on line at <<https://press-pubs.uchicago.edu/founders/documents/amendIDs1.html>> accessed on 8 April 2022

² Y Olomjobi, *Right to Personal Liberty in Nigeria-* (October 2017- Babcock University) available online at <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3062580> accessed on 5 April 2022

Human rights can be defined as the generally accepted principles of fairness and justice inherent in every individual by virtue of their humanity. They are rights that belong equally to all people simply because they are human beings.

In this regard, Article 1 of the Universal Declaration on Human Rights 1948 proclaims that ‘All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Personal liberty

The Merriam Webster³ dictionary defines personal liberty as the freedom of the individual to do as they please limited only by the authority of politically organized society to regulate their action to secure the public health, safety, or morals or of other recognized social interests.

Scholars and jurists alike have given divergent but similar opinions on the concept of personal liberty. Thus, A.B. Dicey opines that personal liberty is “the right not to be subject to imprisonment, arrest and any other physical coercion in any manner that does not admit of legal justification”.⁴ On his part, Lord Alfred Thompson Denning (MR), personal freedom means “*the freedom of every law abiding citizen to think what he will, to say what he will on his lawful occasions, without let or hindrance from any other person*”.⁵

Lord Atkin Lord in the case of *Liversidge v. Anderson*⁶ opines that: “... every imprisonment is prima facie unlawful and . . . it is for a person directing imprisonment to justify his act. The only exception is in respect of imprisonment ordered by a judge. This view is in line with that of Sir Edward Coke⁷ where he stated that “it is unreasonable to send a prisoner, and not to signify what are the crimes alleged against him”.

Thomas Hobbes posits that liberty is “the absence of eternal impediments to physical motion⁸. In another sense, Hobbes defines liberty as the possibility of formulating one’s proper will and using what power one has in accordance with that will, and which the use of force cannot entirely eliminate⁹.

³ ‘Personal liberty’, *Merriam-Webster.com Dictionary*, Merriam-Webster available online at <<https://www.merriam-webster.com/dictionary/personal%20liberty>> Accessed 5 April 2022.

⁴ Y Olomjobi, (n3)

⁵ A Denning, ‘*Freedom Under the Law*’ (1st Series Stevens & Sons, 1949 London) 5.

⁶ [1942] AC 206 at pp. 245–46.

⁷ Blackstone, (n2).

⁸ A S Brett, ‘*Liberty, Right and Nature*’ (University of Cambridge, 1997

⁹ *ibid.*

According to Justice Chukwudifo Oputa, personal liberty “implies freedom from external coercion in the use of one’s good or faculties. It is the status of not being the property or chattel of another.”¹⁰

A Lagos State High Court in *Adewole v. Jakande*¹¹ gave an interesting and all-encompassing definition of personal liberty where it defines personal liberty as follows:

Personal liberty means privileges, immunities or rights enjoyed by prescription or by grant. It denotes not merely freedom from bodily restraint, but rights to contact, to have an occupation, to acquire knowledge, to marry, have a home, children, to worship, enjoy and have privileges recognized at law for happiness of free men.

Legal Framework

International

Nigeria is an active player in the global human rights system and has committed to both the regional and international protection of human rights as it relates to the right to personal liberty. Accordingly, Nigeria is a party to the major regional and international human rights instruments including the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Rights of the Child (CRC), International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Convention on the Rights of Persons with Disabilities and the African Charter on Human and Peoples’ Rights (ACHPR).

Municipal

In Nigeria, section 35 of the 1999 Constitution of the Federal republic of Nigeria as amended provides that “Every person shall be entitled to his personal liberty and no person shall be deprived of such liberty save in the following cases and in accordance with a procedure permitted by law.” This section provides a robust protection for a person’s personal liberty and at the same time prescribes circumstances under which this right may be curtailed.

Thus, the Court of Appeal in *Ken Nnwafor v Economic and Financial Crimes Commission*¹² stated that:

¹⁰ Olomjobi (n3).

¹¹ [1981] 1 NCLR 262 at 278 HC Lagos

... the right to personal liberty, like it is with every other rights including the right to life, the most sacrosanct right of all to the human being, is not absolute and can as permitted by law be derogated from. Thus, in all or any of the circumstances spelt out in sub – section (C) of Section 35(1) of the Constitution of Nigeria 1999 (as amended), the right to personal liberty of the citizen may justifiably and lawfully be derogated from.

In this regard, the circumstances under which the right to personal liberty may be limited are as follows:

In execution of the sentence or order of a court in respect of a criminal offence of which he has been found guilty;

By reason of his failure to comply with the order of a court or in order to secure the fulfilment of any obligation imposed upon him by law;

For the purpose of bringing him before a court in execution of the order of a court or upon reasonable suspicion of his having committed a criminal offence, or to such extent as may be reasonably necessary to prevent his committing a criminal offence;

In the case of a person who has not attained the age of eighteen years for the purpose of his education or welfare;

In the case of persons suffering from infectious or contagious disease, persons of unsound mind, persons addicted to drugs or alcohol or vagrants, for the purpose of their care or treatment or the protection of the community;

For the purpose of preventing the unlawful entry of any person into Nigeria or of effecting the expulsion, extradition or other lawful removal from Nigeria of any person or the taking of proceedings relating thereto arrest, detention and the liberty of persons.

Arrest is a measure designed to restrict a citizen's right to liberty and, in a way, right to freedom of movement. The Supreme Court in *Dokubo Asari v Federal Republic of Nigeria*¹³ held that "The power of arrest of suspected offenders is vested in the police and no one can

¹² CA/A/302/2016

¹³ S.C. 208/2006

take that away from them. This general power invested in the police to arrest and detain suspected criminals is statutory”.

In this regard, section 4 of the Administration of Criminal Justice Act (ACJA) 2015 prohibits that in making arrest, “...the police officer or other person making the arrest shall actually touch or confine the body of the suspect, unless there is a submission to the custody by word or action”. It follows, therefore, that in effecting an arrest, the use of force is permitted only in so far as the suspect resists arrest. This position is also reflected in section 17 of the Criminal Procedure Code. Also, section 4 Criminal Procedure Act and section 37 of the Criminal Procedure Code prohibit the indiscriminate use of handcuffs without authorization by the courts or justice of the Peace.¹⁴

It is sad to observe that rather than adhere to these provisions, the usual habit of arresting officers is to apply force and handcuff, even for minor crimes. Apart from the illegality of such acts, it is a violation of the right to dignity of the human person and constitutes cruel, inhuman and degrading treatment. What is more, the presumption of innocence in our criminal justice system will be affected.

It is imperative to mention that the courts pay attention to issues of arrest as it relates to the rights of citizens’ right to personal liberty. The Supreme Court in *Ikonne V COP and Anor*¹⁵, challenged the action of a High Court Judge in issuing a warrant of arrest without a valid reason. Thus, where a suspect or offender reasonably explains a situation or circumstance in his favour and there is nothing to contradict his explanation at the material time, any arrest in that circumstance has no foundation on reasonable suspicion and vitiates the legality of the arrest. In *John Falade v. Attorney Lagos State*¹⁶, it was held that the Court is always prepared and will be quick to give relief against any improper use of power of the Police.

Detention/Bail

Detention involves one form of restraint or the other against the citizen’s right of movement. It is accepted that detention of persons derogates from the citizens’ right to personal liberty and to the presumption of innocence.

¹⁴ This position is also reflected in sections 3, 4 and 5, of the ACJA 2015.

¹⁵ SC. 253/1986

¹⁶ (1980) 2 NCLR 771.

Whereas the power of members of the police under the Act derogates from the citizens' right to personal liberty, it could be preventive or protective¹⁷. In performing these duties, officers should always be mindful of the right of the suspect to personal liberty as guaranteed by Section 35 of the 1999 Constitution of the Federal Republic of Nigeria.

Arrest in lieu

Another exercise of police powers that amounts to violation of human rights has to do with the arrest of a person for an offence committed by some other person or the relative of a suspect. This is prohibited by section 7 of ACJA 2015 as it provides that "a person shall not be arrested in place of a suspect".

This practice has been vehemently frowned at by the courts as the courts do not accept even the excuse of mistaken identity while carrying out arrest. Accordingly, in *Ogbe v Okonkwo and Ors*¹⁸, the Court of Appeal stated that "...there can be no such excuse as a mistaken identity of the person to be arrested."

Also, in *Sunday Odogwu v. The State*¹⁹ the Court of Appeal held that "... It is beyond doubt that an accused person cannot be held responsible for an act he did not commit..."

Right to remain silent when arrested

The right to remain silent is guaranteed by section 35 (2) of the 1999 Constitution of the Federal Republic of Nigeria as amended. It provides states that "any person who is arrested or detained shall have the right to remain silent or avoid answering any question until after consultation with a legal practitioner or any other person of his own choice." This right continues even beyond the period of arrest as the defendant can choose to remain silent throughout the period of the trial. Unfortunately, the law enforcement officials and security agents often times choose to subject persons to torture, cruel, inhuman and degrading treatments in order to obtain information and confessional statements in violation of the right to remain silent. In *State v. Rabi*²⁰ the Supreme Court condemned the use of force or torture to obtain confession from a defendant and rendered inadmissible by section 29 of the Evidence Act 2011.

¹⁷ See section 53 of the Administration of Criminal Justice Act 2015. This section allows a public officer charged with powers to maintain law and order to effect arrest for the purpose of preventing the commission of an offence, prevent injury or damage to public property.

¹⁸ (2018) JELR 39543 (CA)

¹⁹ (2013). 14 NWLR [Pt. 1373]

²⁰ SC.49/1980

This is because section 29 of the Evidence Act 2011 provides unambiguously that any statement made by a suspect or defendant must be voluntary. In *Saidu V The State*, the Supreme Court held that an accused person's statement is only admissible against him if it is proved to have been obtained voluntarily by the prosecution. In other words, a suspect or defendant can refuse to make a statement or answer any question until after he has consulted with a lawyer or any person of his choice.

Also, section 17 (1) of ACJA 2015 provides that a suspect's statement shall be taken if he wishes to make it and may be done in the presence of a legal practitioner of his choice, and where a legal practitioner is not available, in the presence of an officer of the Legal Aid Council of Nigeria (LACN), member of a Civil Society Organization (CSO) or a Justice of the Peace. It must be mentioned here that section 8 (1) (a) & (b) of ACJA 2015 prohibits the use of torture, inhuman and degrading treatment to obtain information and or confession from suspects or offenders. This, for practical purposes, can inhibit successful prosecution of matters in court.

Right to be informed of the facts and grounds of arrest

Section of section 35 (3) of the Constitution of the Federal Republic of Nigeria 1999 as amended guarantees the right of a suspect to be informed in writing within twenty-four hours, and in a language that he understands, the facts and grounds for his arrest or detention.

Some of the Complaints Received by the Commission on Right to Personal Liberty are as Follows

NHRC/NGSO/2021/041

The Commission received a complaint dated 22nd March, 2021 from DY on behalf of Y who was allegedly arrested from his workshop at Tunga, Minna, Niger State on 22nd March, 2021. DY stated that Y was detained by officers of the Nigerian Police Force, Tudun Wada Division, Minna, Niger State for a week without being told the offence that he committed and without being charged to court.

NHRC/TSO/C/2021/012

The Commission received a complaint dated 27th July, 2021 from DY of Taraba State who alleged that his brother's wife, D, a mother of 4 was arrested in place of her husband. Y was said to have duped some people.

C/2021/WC & VG/CPR/245/AMO

The Commission received a complaint dated 2nd July, 2021 from Y who resides at Mararaba, Nasarawa State alleging that on the 30th June 2021, he was arrested and detained by the Police Station 'A' Division Nasarawa State. Y alleged further that because his master was at large, he was detained for three before he was granted bail and told to pay the sum of N185,000 that is being owed by his master for defrauding people.

NHRC/NGSO/2021/085

The Commission received a complaint dated 10th August, 2021 from DY of United Quarters Dakwa, Tafa Local Government Area, Niger State, against Y on alleged violation of right to dignity of human person, personal liberty, fair hearing, harassment and abuse of power. DY alleged that on 30th June 2021, Y (a Police Officer) came to their area and whisked away some of their members and detained them with the IGP Monitoring Unit, Suleja and refused to release them on bail to the Landlord Association unless at the behest of one Alhaji.

C/2021/CPR/05

The Commission received a complaint dated 8th January, 2021 from D of Owotomo Daniel Street, Oba Ile Estate, Akure, Ondo State. D alleged that on 7th January 2021, Y attempted to forcefully eject her from her accommodation using a police officer to arrest and detain her. D further alleged that on getting to the police station, she was directed to vacate the property within fifteen (15) days.

C/2021/81/AKR

The Commission received a complaint dated 22nd June, 2021 from DY who lives at Agabe street, Oke-Aro, Akure, Ondo State on behalf of Y. DY stated that Y was arrested by the police and detained unlawfully for over forty-eight (48) hours. DY alleged that Y got into a fight with one of his neighbours on 18th June, 2021 and during the fight, Y stabbed the neighbour. Y was then arrested; however, the victim told the police he did not want to pursue the matter as the injury is minor and has also taken the sum of twenty-five thousand naira only (N25,000) from Y to cover his medical bills. DY stated that despite this amicable resolution between the two, the police refused to release Y and also refused to take him to court, and were demanding the sum of twenty thousand naira (N20,000) to be paid to them first before they release Y.

C/2021/CPR/92/AKR

The Commission received a complaint dated 22nd July, 2021 from Y of Omolayo Estate, Akure, Ondo State. Y alleged that his employer and the Nigerian Police Force, Ondo State Command unlawfully arrested, detained and threatened his life. Y stated that he submitted a resignation letter to his employer based on some long-standing issues, which she rejected and laid some false accusations against him. Y further stated that the employer immediately invited some thugs to beat him up and also invited the police to arrest him. Y stated that he was in police custody for days without being granted bail and that he was eventually granted bail through the intervention of his lawyer. Y alleged that his aunt's car which he took to work on the day of the incidence, was impounded by his employers, with the tires deflated.

C/2021/013/ADSO

The Commission received a complaint dated 12th February, 2021 from Y who resides at Thibang Ward, Pella District, Hong Local Government Area, Adamawa State. Y alleged that on 21st March 2010, the district head of Pella ordered him to write an undertaking in respect of his land, relinquishing the land to him and upon his refusal, the district head ordered the police to arrest and detain him. Y also alleged that the district head has consistently threatened and gotten him arrested on different occasions, until he gave in and signed the undertaking before he was released from by the police.

C/2021/015/ADSO

The Commission received a complaint dated 15th February, 2021 from DY who resides at AnguwanBarikijada Jada Local Government Area, Adamawa State. D alleged that the Department of State Services (DSS) Yola, Adamawa State unlawfully arrested and detained her son along Numan Road since 2014 till date.

C/2021/120/AKS

The Commission received a complaint dated 11th August, 2021 from DY alleging that the Criminal Investigation Department (CID) Akwa Ibom State Police Command has unlawfully imprisoned two (2) brothers since 13th July, 2021 and that the victims have not been charged to court and have been refused bail.

C/2021/IMS/14/CPR

The Commission received a complaint dated 22nd January, 2021 from DY at Okwuabala Community Ihio, Orlu, Imo State. DY alleged that his younger brother was arrested and detained by their eldest brother on 21st January, 2021.

BSO/MDR/C/855/2021

The Commission received a complaint on 24th August, 2021 from DY who resides in Hadeja, Jigawa State. DY alleged that the Nigerian Military unlawfully arrested sid (sid) of his relatives at the Dutse Market, Jigawa State and that they have been in detention at Mambila Barracks Abuja, without lawful justification.

BSO/MDR/C/602/2021

The Commission received a complaint on 31st May, 2021 from D who resides at Gubio Camp, Maiduguri Borno State against the Cibilian Joint Task Force Maiduguri, Borno State. D alleged that the Nigerian Military unlawfully arrested her three (3) sons and that they have not been found or heard of for over five (5) years.

BSO/MDR/C/302/2021

The Commission received a complaint on 5th March, 2021 from D who resides at Kumshe, Bama Local Government Area, Borno State. D alleged that the Nigerian Military unlawfully arrested Y, her husband, five (5) years ago at Kumshe, and he has since been in detention since then.

BSO/MDR/C/301/2021

The Commission received a complaint on 5th March, 2021 from Y at Ngala Local Government Area, Borno State. Y alleged that the Nigerian Military arrested his son four (4) years ago at International School Camp Ngala Local Government Area, Borno State following a rumor that he was an insurgent. Y further alleged that his son had presented himself to the police and also denied the allegation, but he is still in detention.

JG/C/2021/091

The Commission received a complaint dated 3rd August, 2021 from Y who lives at Sabuwar Gwaram, Gwaram Local Government Area, Jigawa State. Y alleged that on 1st August 2021, his son was arrested and detained at Gwaram Police Division in Jigawa State.

NHRC/NGSO/2021/062

The commission received a complaint dated 4th June, 2021 from DY who resides in Minna, Niger State on behalf of Y, a gold miner, on alleged prolonged detention and denial of access to justice. DY alleged that Y was, on 13th March 2021, arrested from his residence in Minna,

Niger State and taken to the TRADOC Barracks by officers and men of the Nigerian Army, Niger State. DY further alleged that Y was subsequently mobbed to Abuja on 19th March, 2021 and nothing has been heard about him since then.

Media report on Right to Personal Liberty

1. On 2nd August, 2021 This Day Newspaper at page 59 reported that human Rights lawyer and activist Femi Falana (SAN) has warned the Federal government to respect the rule of law and international human rights handling the cases of secessionist, Mazi Nnamdi Kanu and Chief Sunday Igboho. According to him, the court in Benin Republic is sitting almost on a daily basis because the issue of liberty is involved.
2. On 2nd August, 2021 Daily Trust Newspaper at page 6 reported that human rights lawyer and activist Femi Falana (SAN), said that fresh charges by the Kaduna State Government against Sheikh Ibrahim Zakzaky and his wife are aimed at frustrating their release from custody.
3. On 3rd August, 2021 The Guardian Newspaper at page 5 reported that men of Benue State Police Command have rescued the Benue commissioner's wife, Mrs. Ann Unenge and her driver. Report had it that three of the abductors have been killed and three of them have escaped.
4. On 4th August, 2021 Daily Trust Newspaper at page 6 reported that officials of the National Agency for Prohibition of Trafficking in persons (NAPTIP) and others have rescued 13 Libya-bound victims of Trafficking. Report had it that one high profile trafficking suspect, Nurudden Sani is said to be based in Kano.
5. On 4th August, 2021 This Day Newspaper at page 72 reported that three students of the Bethel Baptist High School, Kaduna, who escaped from captivity but were re-abducted by another set of bandits have regain their freedom after payment of ransom.
6. On 4th August, 2021 The Guardian Newspaper at page 5 reported that operatives of the Department of State Services (DSS) have arrested suspected kidnappers of six-year-old Abdallah Salisu in Kano State. According to the report, the culprits, whose ages ranged between 16 and 21 years, were nabbed by operatives at the point of ransom payment.

7. On 4th August, 2021 This Day Newspaper at page 74 reported that a 14 year old student, Felid Adekinle escaped from kidnappers in Owo, Ondo State. Report had it that the boy was hawking slippers at the time he was kidnapped.
8. On 10th August, 2021 Daily Trust Newspaper at page 3 reported that Niger State Commissioner, Alhaji Idris habe been abducted late Sunday night in his residence at Babban-Tunga by gunmen.
9. On 10TH August, 2021 Daily Trust Newspaper at page 4 reported that gunmen ober the weekend had attacked two communities in southern part of Kwara and abducted at least 30 people in separate incidents. It was gathered that some of the bictims include a pastor and his wife with three other passengers. Similarly, it has been reported that there had been a reign of terror in Sabon Birni, Sokoto State within the past one week where bandits killed 12 persons and sacked 14 billages in the area.
10. On 10th August 2021, This Day Newspaper at page 37 reported that barely 24 hours after a man was killed in Ekiti State with his wife and daughter abducted by gunmen, some suspected kidnappers had again abducted a farmer in Ikole, Ekiti State.
11. On 10th August 2021, This Day Newspaper at page 37 reported that about sid suspected kidnappers that abducted a 60-year-old man, Mr. Ayo Alabi last Saturday at Eleyin, Kwara State habe demanded for the payment of N30 million ransom from the family of the bictim.
12. On 11th August, 2021 Daily Trust Newspaper at page 8 reported that gunmen inbaded the residence of a politician on 10th August, at Damba kuarters in Zamfara State and abducted his wife, who is a nursing mother.
13. On 12th August, 2021 This Day Newspaper at page 45 reported that a joint security team operating at a section of Ekiti State has freed a woman and her daughter from captivity on Friday, 6th August. Report had it that the bictims came for a burial from Lagos but were kidnapped along Ayetoro-Ewu Ekiti Road by gunmen that shoot her husband and killed him instantly.
14. On 16th August, 2021 Daily Trust Newspaper at page 6 reported that bandits set free three students who were among the scores of student and staff abducted from Federal Gobernment College, Birnin-Yauri on 17th June. It was reported that the student was freed alongside one of their teachers and a Chinese national.

15. On 16th August, 2021 Daily Trust Newspaper at page 28 reported that gunmen invaded a Fulani settlement in Dogon-Ruwa community of Kwali Area Council of FCT and abducted four herders and in the process injured another one.
16. On 16th August, 2021 The Guardian Newspaper at page 9 reported that the National Agency for the Prohibition of Trafficking in Persons (NAPTIP), has arrested a middle age man, Emmanuel Stephen for allegedly trafficking his 21-year-old girlfriend, to Mali for prostitution and sexual exploitation.
17. On 16th August, 2021 This Day Newspaper at page 52 reported that gunmen, abducted Sanusi Maikano, the Administrative Officer to President Muhammadu Buhari at his residence in Gwantu, Kaduna State at about 9:00 pm and have since demanded N200 million as ransom.
18. On 16th August, 2021 This Day Newspaper at page 58 reported that the victims of kidnapping in Omu Aran and Oke Onigbin areas of Kwara State have been released. This was made known in a statement by the new Kwara State Commissioner of Police, Mr. Tuesday Assayomo.
19. On 18th August, 2021 The Guardian Newspaper at page 9 reported that gunmen kidnapped the traditional prime minister of the community and 25 others. It was also reported that the gunmen invaded the community and whisked the victims to unknown destination.
20. On 19th August, 2021 This Day Newspaper at page 5 reported that the Katsina State Police Command yesterday confirmed the abduction of nine pupils of an Islamiyya School by bandits in Sakkai village while returning home. The incident was confirmed by the Command's Public Relation Officer, SP Gambo Isah.
21. On 23rd August, 2021 This Day Newspaper at page 12 reported that bandits released 15 students of the Bethel Baptist High School, Kaduna while keeping with them, 63 other victims.
22. On 23rd August, 2021 The Guardian Newspaper at page 8 reported that a 65-year-old man, Akorede Lawal, suspected to be a ritualist, has been arrested by Amotekun Corps in Ondo State, for taking 18-year-old boy, Segun Thomas, into captivity for alleged ritual purposes.
23. On 24th August, 2021 Daily Trust Newspaper at page 31 reported that the Director General of National Agency for the Prohibition of Trafficking in Persons (NAPTIP), Mr Basheer Garba-Mohammed, on Monday, said the agency apprehended four suspected traffickers and rescued 19 victims. Report had it that

- the suspects are men while the victims are girls and women between the ages of 14 and 29 years.
24. On 25th August, 2021 Daily Trust Newspaper at page 6 reported that Director General of the National Agency for the Prohibition of Trafficking in Persons (NAPTIP), Senator Basheer Garba Muhammad, said that a total of 104 victims of human trafficking have been rescued by the agency on their way to Europe through Libya.
 25. On 25th August, 2021 This Day Newspaper at page 50 reported that the National Human Rights Commission (NHRC) has decried the illegal detention of citizens by some law enforcement agencies beyond the constitutionally stipulated reasonable time, insisting that such an unwholesome act is gross violation of human rights and must be accounted for. This was made in a statement by the Executive Secretary of NHRC, Tony Ojukwu.
 26. On 26th August, 2021 Daily Trust Newspaper at page 29 reported that bandits have abducted the widow of Alhaji Rabe Bello Kofa, the former head of Kofa village in Kusada, Katsina State.
 27. On 30th August, 2021 The Guardian Newspaper at page 13 reported that two middle-aged men have been arrested by combined team of Nigerian Police and the community's vigilante group in Anambra State for allegedly assaulting some field officers of AEDC.
 28. On 31st August, 2021 Daily Trust Newspaper at page 3 reported that the Executive Director, CLEAN Foundation, Dr. Benson Olugbuo has quoted the International Committee Red Cross (ICRC), stating that within the last 10 years, about 22,000 people have been missing from Nigeria alone, which is the highest record in Africa so far.
 29. On 31st August, 2021 Daily Trust Newspaper at page 4 reported that the Islamic State in West African Province (ISWAP) has launched a massive attack in Ran, headquarters of Kala Local Government Area of Borno State. According to sources, many residents of the town fled to Cameroon as a result of the attack.
 30. On 5th July, 2021 This Day Newspaper on page 49 reported that the Chairman of the Nigeria Labour Congress (NLC) in Taraba State, Comrade Peter Jediel has been abducted by unknown gunmen at his residence in Ardo-Kola Local Government Area of the State at about 12:45 am.

31. On 5th July, 2021 Daily Trust Newspaper on page 6 reported that gunmen have abducted babies from the residential quarters of the National Tuberculosis and Leprosy Centre in Zaria Kaduna State. Daily Trust gathered that five staff of the hospital, including female nurses, were also abducted.
32. On 6th July, 2021 This Day Newspaper on page 5 reported that about 152 pupils of Bethel Baptist High School, Damishi in Kaduna were still missing after bandits abducted about 180 in an early morning raid.
33. On 7th July, 2021 The Guardian Newspaper on page 6 reported that some gunmen have abducted four farmers in Ikosun-Ekiti, Moba local council of Ekiti State while working in their farm. The traditional ruler of the town, Oba Joseph Afolabi Adeoye confirmed the abduction to the journalist.
34. On 7th July, 2021 The Guardian Newspaper on page 27 reported that unknown gunmen abducted Oscar Ofuka, Special Adviser on Cocoa Development, to Cross River State Governor, Ben Ayade in Calabar.
35. On 9th July, 2021 This Day Newspaper on page 44 reported that bandits carried out a massive raid on Manta village in the Shiroro Local Government Area of the Niger State. Eyewitness told This Day that the bandits were sophisticated with guns on about 35 motorcycle shooting sporadically to instil fears in the villagers
36. On 9th July, 2021 Daily Trust Newspaper on page 45 reported that bandits abducted nine persons in Kaduna resident. The incident happened two days after armed men abducted 121 students from Bethel Baptist High School.
37. On 12th July, 2021 Daily Trust Newspaper on page 4 reported that bandits laid siege on Kajuru Local Government Area of Kaduna State and abducted a second-class monarch, Alhaji Alhassan Adamu and other thirteen members of his family.
38. On 15th July, 2021 Daily Trust Newspaper on page 38 reported that gunmen stormed the residence of former chairman of Kaugama Local Government Area in Jigawa, Ahmed Yahaya Marke and abducted his wife, Fatima. One of the children of the victim, Ahmad confirmed the abduction to Daily Trust.
39. On 15th July, 2021 The Guardian Newspaper on page 13 reported that a first class traditional ruler in Kogi State, Alhaji Mohammed Adembe was on Tuesday evening kidnapped by unknown gunmen along Okene-Adogo road. The kidnapping of the royal Father occurred barely three days after the kidnap of a pharmacist, Abdulazeez Obajimoh which resulted in gun duel leading to the death of one Habeeb Anda.

40. On 22nd July, 2021 The Guardian Newspaper on page 5 reported that gunmen reportedly abduct a 38-year-old man identified as Lawan Zakar from his residence at Dankoli Kwarters in Kiyawa Local Council of Jigawa State.
41. On 22nd July, 2021 The Guardian Newspaper on page 8 reported that gunmen in Military camouflage abducted the 90-year-old mother of the secretary to the Bayelsa State Government, Kombewie Benson. The victim, Madam Betinah Benson was abducted about 10:00pm on Tuesday at her old Assembly Kwarters residence, Yenagoa. This is the second time the victim has been kidnapped.
42. On 22nd July, 2021 Daily Trust Newspaper on page 25 reported that gunmen suspected to be kidnapers have abducted six residents of Tungan-Maje, a suburb of Abuja in Gwagwalada Area Council, FCT. The District Head, Alhaji Hussaini Barde has appealed to the security authorities to come to the aid of his subjects in deploying enough security.
43. On 27th July, 2021 This Day Newspaper on page 35 reported that a first class traditional ruler in Kaduna State, the Chief of Jaba and the Kpop Ham, Danladi Maude, has been abducted by bandits. A family source confirmed the incident saying the traditional ruler is above 80 years and was abducted in his farm.
44. On 28th July, 2021 Daily Trust Newspaper on page 8 reported that gunmen suspected to be kidnapers have abducted seven naval officers in Edo State on Sapele-Warri Road on their way to Naby Engineering College in Delta State. Correspondent learnt that five of the officers have been rescued by the police.
45. On 28th July, 2021 Daily Trust Newspaper on page 22 reported that the Islamic State on West Africa Province (ISWAP), has kidnapped a staff of Yobe State Government House in Damaturu. The insurgents also abducted three other persons on Sunday on Damaturu/Maiduguri highway.
46. On 30th July, 2021 Daily Trust Newspaper on page 30 reported that a former member of Jigawa State House of Assembly, Haladu Bagu, has been abducted on Wednesday night on his way from Kano to Jigawa.
47. On 1st September 2021, Daily Trust Newspaper at page 26 reported that a magistrate's court in Lagos sentenced a twenty-three-year-old man, Sunday Oguche, to eight months' imprisonment for stealing a motorcycle. The News Agency of Nigeria (NAN) reports that the convict stole the motor-cycle valued at N350, 000, and sold it for N10, 000.

48. On 2nd September 2021, Daily Trust Newspaper at page 4 reported that bandits in large number attacked Government Secondary School, Kaya in Zamfara State and abducted 74 pupils and teachers.
49. On 3rd September 2021, Daily Trust Newspaper on page 29 reported that the Federal Capital Territory Administration (FCTA), through the Ministerial Task Force on city Sanitation, has arrested 49 miscreants during a demolition exercise in Gwarinpa Estate, Abuja.
50. On 6th September, 2021 The Guardian Newspaper at page 6 reported that over thirty armed men, at the weekend, stormed Wawa District in Niger State and kidnapped the monarch, Dr. Mahmud Ahmed, from his place.
51. On 6th September 2021, Daily Trust Newspaper at page 6 reported that kidnappers stormed the residence of a lawmaker in Kurami Billage, Bakori Local Government Area of Katsina State, around 9:15pm and abducted his wife and two children and shot at a member of the First Aid Group of Islam, Abdulhakim Ubaidu, at the main gate.
52. On 7th September 2021, The Guardian Newspaper at page 13 reported that gunmen suspected to be kidnappers have abducted a 45-year-old woman and two of her daughters at Pegi community in Kuje, an outskirt of Abuja. The trio were abducted two days after Abdullahi Benda, and his 23-year-old son, Jibrin Abdullahi Benda, were kidnapped at Yangoji billage, in Kwali.
53. On 8th September 2021, Daily Trust Newspaper at page 10 reported that banditry regained momentum in Kaduna and Katsina states yesterday where no fewer than 27 persons were abducted.
54. On 9th September, 2021 Daily Trust Newspaper at page 35 reported that the Nigeria Police Force has arrested eight suspects over kidnap and murder of 93-year-old Mr Defwan Dariye, father of a former Governor of Plateau, Mr Joshua Dariye. This was made known in a statement by the Public Relation Officer, Mr Frank Mba during a media briefing in Abuja.
55. On 9th September, 2021 Daily Trust Newspaper at page 35 reported a magistrate court sitting in Ado-Ekiti has ordered the remand of one Muhammed Ado Musa, 40 at the correctional centre in Ado-Ekiti, over an alleged fraudulent transfer of N2 million.
56. On 9th September, 2021 This Day Newspaper at page 53 reported that suspected pirates have attacked a passenger boat along Bonny-Onne waterways in Rivers State

and kidnapped five persons. The incident was confirmed by a top official of the Maritime Workers Union of Nigeria (MWUN).

57. On 10th September, 2021 Daily Trust Newspaper at page 44 reported that the Kogi State Police Command said it has arrested four suspected Kidnappers and armed robbers terrorising the residents of Bassa Local Government Area and its environs.
58. On 10th September, 2021 The Guardian Newspaper at page 5 reported that bandits abducted two brothers in Rigachikun Community of Kaduna State around 12:45am. Report had it that the bandits shot sporadically to scare residents away before fleeing with two teenagers.
59. On 10th September, 2021 The Guardian Newspaper at page 9 reported that operatives of the Imo State Police Command have arrested a 55-year-old woman, Chinyere Ohanyere, for allegedly buying a set of twins for an undisclosed fee.
60. On 10th September, 2021 The Guardian Newspaper at page 9 reported that no fewer than 18 passengers travelling to Lagos were abducted on Wednesday when their bus was attacked by armed men between Idoani-Ifira axis of the state.
61. On 14th September, 2021 Daily Trust Newspaper at page 10 reported that gunmen had waylaid some road users and abducted four persons along Ayetoro- Ekiti Otun road in Ekiti State.
62. On 14th September, 2021 Daily Trust Newspaper at page 36 reported that kidnapper had abducted two housewives at Piri village in Kwali Area Council of FCT. The statement was confirmed by a resident in the community, Emos Bako.
63. On 20th September, 2021 The Guardian Newspaper at page 7 reported that bandits had released another batch of 10 Bethel Baptist students in Kaduna, leaving 21 of them still in their den.
64. On 20th September, 2021 This Day Newspaper at page 61 reported that the first son of Igwe Aled, former traditional ruler of Mkpuando, who was recently assassinated by gunmen, had been receiving threat calls from anonymous persons since he started helping the police in finding his father's killers.
65. On 21st September, 2021 Daily Trust Newspaper at page 25 reported that a nursing mother, Salamatu and two other persons had been abducted in Jalingo.
66. On 21st September, 2021 The Guardian Newspaper at page 5 reported that within two months, the police in Adamawa State apprehended 121 kidnappers and recovered 20 AK-47 guns with other arms and ammunitions.

67. On 21st September, 2021 This Day Newspaper at page 56 reported that kwara State Police Command disclosed that it had arrested two suspected ritualists that allegedly killed a middle age girl and sold her hands.
68. On 22nd September, 2021 Daily Trust Newspaper at page 20 reported that Ogun Police Command had arrested a 39-year-old man, Oladapo Akinola, for allegedly defiling his five-year-old stepdaughter in Abeokuta State.
69. On 23rd September, 2021 Daily Trust Newspaper at page 6 reported that Ekiti State Chief Magistrates' court, had remanded one Olayitan Olatimihin, 26 at Nigeria Correctional Centre for 30 days over the rape of a 16-year-old student of Federal University, Ekiti.
70. On 23rd September, 2021 Daily Trust Newspaper at page 29 reported that a Magistrate Court in Osun, had remanded a 20-year-old man, Oluwatofunmi Tope at Correctional Centre over allegation of rape.
71. On 24th September, 2021 Daily Trust Newspaper at page 36 reported that a 66-year-old woman, Adebisi Balogun, had been arraigned before a magistrate court for stealing a four-month-old baby in Osogbo, Osun State.

Conclusion

This chapter has shown the importance of the right to personal liberty to human existence and endeavours. It also discussed the international and municipal framework for the protection of the right to personal liberty which requires that persons should not be subjected to arrest and detention except as provided by law, as well as the limitations to this right.

It is therefore imperative that law enforcement officials at all times respect the rights of all persons to personal liberty and exercise powers conferred on them within the limits prescribed for officers by law. To this end law enforcement practices must be carried out with a view to promote and protect human rights in Nigeria.

CHAPTER FOUR FREEDOM OF EXPRESSION AND THE MEDIA

By

Mebrim Uchechukwu Kenneth*

Introduction

The right to freedom of expression and the media is the hallmark of any egalitarian and democratic society which promotes citizens' participation in governance and guarantees inclusive development.

Freedom of expression is a fundamental right of citizens to hold opinions, air their views, and impart ideas to other persons on any given issue or policy in the society without undue interference by any individual, group or government. The right to freedom of expression is provided in Section 39 of the 1999 Constitution of the Federal Republic of Nigeria as amended.

Without prejudice to the generality of sub Section (1) of this Section¹ every person shall be entitled to own, establish and operate any medium for the dissemination of information, ideas and opinions provided that no person, other than the government of the Federation or State or body authorized by the President on fulfillment of a condition laid down by an Act of National Assembly, shall own, establish or operate a television or wireless broadcasting station for any purpose whatsoever.

In the same manner, the press is entitled to the rights to freedom of expression in the cause of educating their constitutionally guaranteed responsibilities of holding the government accountable to the people.

The press should not be subjected to unnecessary censorship or harassment while carrying out their duties, which include holding the government accountable to the people. Therefore, it cannot be gainsaid that the drafters of the Constitution in assigning this function to the press must have considered the crucial role the media could play in championing open and

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¹ Section 39, Sub-Section (1) of the 1999 Constitution of the Federal Republic of Nigeria as amended.

inclusive government that has accountability as its watchword. Interestingly, the Nigerian media have done a lot by leveraging investigative journalism to expose and condemn financial corruption, bad governance and human rights violations by some persons in positions of authority.

Regrettably, some journalists while discharging their constitutional responsibility have faced a series of challenges, including unlawful arrest, detention and prosecution for publishing certain stories or articles which the government considers inappropriate and a threat to national security. In most cases the, victims are discharged and acquitted by the court, having not committed any offence under the law. The society hardly do enough to show solidarity after the undue incarceration suffered by such journalists in trying to uphold the provisions Section 22 of the 1999 Constitution as amended².

Recently, the Federal Government of Nigeria (FGN) threatened to sanction British Broadcasting Corporation (BBC) and Trust Television over their documentaries on terrorism in Nigeria¹. The government is allegedly taking this stand on the ground that airing documentaries on terrorists' activities is a way of giving undue publicity to the terrorists and therefore should not be allowed. This has attracted the attention of some Non-Governmental Organizations (NGOs) including Socio Economic Rights Accountability Project (SERAP) who has picked holes in the threat issued by the government, asking it to rescind its decision to sanction the two media organizations. SERAP later sued the federal government over the imposition of N5 million fines on the two media organizations, describing it as arbitrary. In the media report, SERAP faulted the FGN threat to sanction the two media organizations³.

In the same manner, SERAP said reboking the licenses of 53 broadcasting stations and shutting down their operations, because they have not renewed their licenses, would undermine the rights of millions of Nigerians to express their thoughts.⁴ The National Broadcasting Commission (NBC) had reboked the licenses of the 53 broadcast stations and threatened to shut down their operations within 24 hours over alleged N2.6 billion debt. NBC consequently asked the stations to pay all outstanding license fees on or before August 23 2022 or shut down by 12am on August 24. It is obvious that if the stations are shut down as threatened by the government, the right to freedom of expression and the media will be

² Section 22 of the 1999 Constitution of the Federal Republic of Nigeria as amended.

³ O Akoni, 'Terrorism reporting: SERAP faults FG over threat to sanction BBC, Daily Trust' *Vanguard* (Lagos, 1 August 2022)

⁴ U Orizu, 'SERAP tells Buhari to Withdraw Threat to Shut Down 53 TB, Radio Stations', *Thisday Newspaper* (Lagos, 22 August 2022)

violated. Alternatively, the government and the owners of these affected broadcast stations should reach an amicable solution to the impasse with a view to ensuring compliance with the payment of the license fees over time, without shutting down the stations.

Although some domestic, regional and international laws confer powers on the state to impose restrictions on freedom of expression but in doing so, it must be done responsibly. For instance, in restricting this right, the reason must be rooted in the need to protect national security, public morals, public order, and public health etc. Unfortunately, those who do not want freedom of expression to thrive usually hide under the umbrella of the aforesaid restrictions, particularly the need to protect national security to undermine freedom of expression and the press.

To better understand the discourse as articulated under this chapter, the immediate following segment clarifies the key words like human rights, freedom, expression and media. This is followed by the legal framework which comprises international, regional and domestic. Thereafter, the media reports on the freedom of expression received by the Commission during the year of assessment are highlighted. This is followed by brief conclusion and recommendations under the chapter.

Conceptual Clarification/definition

Human Rights

Human Rights are rights that every person is qualified to enjoy for being a human being. The only qualification for the enjoyment of human rights is that one is a human being. Therefore, is no basis for discrimination in the enjoyment of human rights and as such they should be protected and enjoyed by every person, everywhere and at all times.

Freedom

According to Oxford Advanced Learners Dictionary 'freedom' is the right to do or say what you want without any one stopping you etc.⁵

Expression

Expression is the ability of man to give vent to his feeling and desire on any particular matter. People generally feel their humanness when they put out their thought across to other

⁵ Oxford Advanced Learner's Dictionary – International Students Edition (Oxford University Press n.d) 596

members of the public who may also ignore, concur or oppose them. In any case, what matters is the right to freely express oneself without any fear of intimidation or antagonism. This right is very fundamental that any attempt to deny it will offend the sensibilities of the citizens. This may give the impression that the government has something to hide against the collective interest of the public. Such a scenario foists a state of hopelessness on the people. They may now think that they merely exist because they only live in fear. Since speaking their minds may be tantamount to opposing government policies and programmes, which the government does not tolerate. Under this situation, the citizens will merely exist instead of living and contributing ideas and opinions that will impact positively on governance.

Media

Media can be Print and Electronic etc. It can be defined as a channel through which the public are informed, educated or entertained. Media is used interchangeably under this chapter with the word 'Press'. It could also be used to disseminate ideas or contents that set agenda for the government. The Media uses print, electronic and social media as platforms to achieve the aforementioned purposes. Some examples of print media are newspapers, magazines and journals, while the electronic media include radio and television. The social media which is relatively new has various platforms such as facebook, twitter, instagram, you-tube, etc.

Legal Framework

International

Nigeria is an active member in the global human rights firmament and it has signed and ratified several human rights principles that guarantee freedom of expression.⁶

Regional

At the regional level, the right to freedom of expression is recognized as an essential right of the people to hold opinions and express their thought on any matter. Article 9 of the African Charter on Human and Peoples Rights supports this right.

⁶ Article 19 (1) and (2) of the International Covenant on Civil and Political Rights

Domestic

There is no gainsaying that Section 39 of the 1999 Constitution of the Federal Republic of Nigeria as amended expressly provides for the enjoyment of the freedom of expression and the press by the citizens and foreigners living in Nigeria.

Section 39 (1) of the Constitution expressly provides that:

“Every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference.”

However, the right to freedom of expression is not absolute or total. For instance, Section 39 (3) of the Constitution limits the rights for what it considers as justifiable and reasonable for reasons of protecting non-disclosure, confidentiality, guaranteeing independence and partiality of the judiciary, and regulating technological means of disseminating information.

Section 45 of the Constitution qualifies Section 39 (3) by defining laws that are justified in limiting the right to freedom of expression and the press.

The state through its agents or functionaries withholds evidence which it considers could, if revealed in open court, adversely affect the public interest.

The Evidence Act also prohibits the disclosure of unpublished official documents except with the permission of the Head of the Department concerned. This could be referred to as an official secret.

Freedom of the press comes with some restrictions as seen in Sections 166 and 167 of the Evidence Act which prohibits publications that are prejudicial to a fair criminal trial, publications prejudicial to a fair civil trial, scandalizing the court, contempt in the face of the court, act which interferes with the course of justice, obscene and harmful publications.

Similarly, infractions like slander, defamation, and libel are obstacles to the full enjoyment of the right to freedom of expression and the press. For example, laws on defamation seek to protect the reputation of persons and offer redress to any form of libel or slander. People tend to lose their prestige, regard, and respect before the public when they are maligned via defamation, slander or libelous publications.

In view of the above, some schools of thought believe that the State over stretches its powers by getting involved with what should be a civil matter and making the same criminal. They argue that the criminalization of defamation has a restrictive effect on freedom of expression,

since one may not feel free to speak or criticise policies or decisions that he considers inappropriate for fear of being held liable for libel.

The proposed amendments to the Nigeria Press Council Act and the Nigerian Broadcasting Commission Act have no doubt sparked some controversies leading to their suspension.

The amendments to these laws tend to give more powers to the Minister of Information to exercise some undesirable powers on the journalists and the media Houses as well. For instance, in the proposed amendments to the media laws, there is provision for press codes which is reportedly developed by the Office of the Minister of Information. In the draft document, newspapers are supposed to be registered with the Ministry of Information and if they happen to be involved in libelous publications, they will be suspended and fined huge sums of money. In extreme situations, such newspapers could be closed down.

The proposal seeks to, among others; put all board memberships and operational control mechanisms at the NPC under the control of the President through the Minister of Information.

Similarly, in the proposed amendment to the NBC Act, the government will have the full powers to censor online media content in the same manner it does to radio and television stations in the country, using the NBC.

Notwithstanding the fears expressed above concerning the proposed amendments to the NPC and NBC laws, freedom of expression and media-pluralism remains key enablers for Sustainable Development Goals. Goal 16 seeks to 'promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels'.⁷

This is in line with its constitutional responsibility enshrined in Section 22 of the 1999 Constitution as amended, to hold the government accountable for the citizens⁸. This to an extent has encouraged open governance, transparency and accountability in the country, though there is more room for improvement. With this law, people could request and have access to the budget, revenue and expenditure of public offices, from the local government up

⁷ United Nations Sustainable Development Goals, [<https://www.un.org/sustainabledevelopment/sustainable-development-goals/>] assessed 12 September, 2021.

⁸ The Nigerian Constitution, Nigerian Lawyers Directory.com [<https://nigerianlawyersdirectory.com/nigerianconstitution/section-22-of-the-nigerian-constitution/0>] assessed 12 September 2022.

to the federal government levels. However, the major challenge here is the reluctance on the part of the citizens and the mass media to fully take advantage of the Freedom of Information Act 2011 which has been in place for over a decade.

It is important to look into some of the laws enacted by the colonial masters which we inherited alongside independence in 1960. They include the Official Secrets Act and the provisions of the Criminal Code relating to sedition and criminal libel. These laws tend to undermine other laws that guarantee freedom of expression and the press

Interestingly, the Court of Appeal in *Arthur Nwankwo v The State*⁹ gave a decision that upholds freedom of expression and the press. According to the court, the decision of the founding fathers of this present Constitution which guarantees freedom of speech which must include freedom to criticize should be praised and any attempt to derogate from it except as provided in the Constitution must be resisted.

Therefore, this chapter tends to emphasize on the right to freedom of expression and the media as upheld by the Court of Appeal and several other authorities and laws, by urging citizens and the media not to develop a cold foot in seeking to promote, protect and enforce this inalienable rights.

It is also a reminder to the public that no individual, group or the government has the authority to withhold this right in whatever manner provided that it does not infringe upon other people's rights or undermine national security, public safety and national interest etc.

Again, it is worthy of note that relevant institutions of government like the National Human Rights Commission (NHRC), the Judiciary and relevant Civil Society Organization (CSOs) and other relevant stakeholders are on ground to intervene whenever such rights are violated or threatened. Nobody or institution has the power to shut the door of freedom of expression and the media without recourse to the legitimate process.

Media Reports on Freedom of Expression and the Media

1. On 3rd August, 2021 This Day Newspaper at page 16 reported that Media Rights Agenda (MRA) has filed a suit asking the Federal High Court in Lagos to declare that the failure of the federal government to take effective measures to investigate, prosecute and punish perpetrators of attacks against journalist and other media professionals is a breach of the government's duty.

⁹ (1985) 6 NCLR 228

2. On 26th July, 2021 This Day Newspaper on page 51 reported that Premier Academy, Lugbe which is at the centre of controversy over the death of Mr Karen Akpagher, has pushed back on the allegations of sexual harassment that led to the death of a 14-year-old SS1 student. The Acting Principal's spokesman informed the public that they are awaiting autopsy report as part of investigation process.
3. On 13th July, 2021 Daily Trust Newspaper on page 1 reported that the National Assembly is currently on two anti-media bills designed not to only intimidate and stifle the press, but also to decapitate a cornerstone of our democracy- free speech. It is reported that the amendments are to empower the Minister of Information to issue licenses to print and broadcast media, and penalise journalist and media organisations for offences already covered under the country's penal and criminal codes.
4. On 13th July, 2021 The Guardian Newspaper on page 1 reported that the Nigerian public have good reasons to be wary and collectively reject Media Regulation Bills now in the National Assembly. Under the cover of tackling hate speech and fake news, the proposed amendments to the Nigerian Press Council (NPC) and National Broadcasting Commission (NBC) acts readily to shackle press freedom, hound critics of government policies and public rights to be heard.

Conclusion

From the foregoing, it is evident that the right to freedom of expression and the media is quite essential for a smooth relationship between the government and the citizens. Once this right is protected, citizens including journalists will feel free to contribute ideas on government policies and programmes. This will no doubt enhance accountability, good governance and strengthen democratic ethos in the country.

Recommendations

The relevant stakeholders should intensify awareness creation on the freedom of expression and the press, to enable the public to understand and appreciate the provisions of the law and seek to uphold them at all times.

The public should be sensitized on the need to avoid making inciting comments in the name of freedom of expression as this could lead to tension and violence which is not the intentment of the freedom of expression laws.

The Commission in collaboration with stakeholders should intensify efforts to campaign against hate speech and spreading of fake news so as not to anger fellow citizens, those in positions of authority or overheat the polity.

The law enforcement agencies should endeavour to exercise their powers within the tenets of the law in order not to infringe upon the freedom of expression and the press, otherwise they should be held accountable.

There has to be synergy among stakeholders in the justice sector, including the judiciary, the National Human Rights Commission, the Police, Office of the Attorney General of the Federation and Offices of Attorneys General at the state government level, and relevant Civil Society Organisations (CSOs), etc to ensure that those who trample upon the right to freedom of expression and the press are punished in accordance with the law.

CHAPTER FIVE

RIGHT TO FAIR HEARING

BY
PETER ACHA*

Introduction

There is no doubt that the Nigeria of today has reduced the importance of fair hearing to the back seat, making it difficult for the ordinary man to have access to its applicability in the administration of the criminal justice procedures. This ranges from numerous false accusations of innocent citizens, extra judicial killings, kangaroo trial and conviction. It is against this backdrop that this chapter seeks to push forward the meaning and importance of the right to fair hearing and its application in the administration of Criminal Justice procedures.

Fair hearing is a term used to describe the opportunity given to a person to be heard before determination of a matter concerning the person in a court of law, tribunal or a quasi-Judicial institution.

The right to fair hearing on the other hand is a universal inalienable right to natural justice. It is seen as an aspect of public justice which sets a standard fixed by law or society which cannot be compromised by any judicial institution hearing a criminal or civil matter as the case may be.¹ The right to fair hearing is a concept many believed was instituted by God (our Creator). A good example is shown in the case of Adam and Eve (our first parents). Despite God as an Omnipresent Being, He still saw the need to ask them “what have you done”? The defence put forward by all the parties for the sin committed, resulted in apportioning different punishments to them. It is worthy to note that right to fair hearing is a gateway to an unbiased and impartial justice.

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¹ Chigozie Nwagbara “The Role of Fair Hearing in the Dispensation of Justice in Nigeria” International Journal of Innovative Legal & Political studies 4(4):1-10, Oct.-Dec. 2016.

Conceptual Clarification of Terms

Within the legal context, the rights to fair hearing means to listen to parties to a matter attentively, consider and decide on such matter. It entails that a person is given a reasonable time to tender oral and documentary evidence to probe or counter any allegation labelled against such a person.

The right to a fair hearing applies to both criminal and civil proceedings and in cases before courts, tribunals and quasi-Judicial Institution. It also applies to Military disciplinary hearings. The right is concerned with procedural fairness, rather than with the substantive decision of the court or tribunal.

The essence of the right to fair hearing is predicated on the rule of natural justice which dictates that no man should be condemned unheard and that every judge must be free from bias. Its purpose is to ensure fair play/trial. Once, it is discovered during trial that there is an infringement of the principle of natural justice, such trial cannot be fair and the accused person's right to fair hearing has been denied and such process may be vitiated or nullified if appealed.

The right to fair hearing in the contemporary entails that authority is fairly exercised, that is, consistently with the fundamental principles of justice within the ambience of due process. Many countries in the world have a Bill of Rights or a Fundamental Right Chapter in their written Constitutions spelling out in details, the fundamental human rights of the people. Some of the features of right to fair hearing are:

- It is flexible in application
- It is a comprehensive representation and codification of the rules to natural justice.²
- It guarantees the presumption of innocence until proven otherwise.
- It is a fundamental or constitutional right which is claimable by an aggrieved party.
- It has a great and binding force of law on all persons and authority
- It discourages a person assuming a judge in his own case
- It guarantees fair trial and fair justice.

² (1988) NWLR PT 85 676 (SC), E Malemi, The Nigeria Constitutional Law (2012) Princeton Publishing Company, Ikeja, Nigeria. C Nwagbara "The Role of Fair Hearing in the Dispensation of Justice in Nigeria" International Journal of Innovative Legal & Political studies 4(4):1-10, (Oct.-Dec. 2016) 2

Aside the features of right to fair hearing listed above; there are basic criteria and attributes of fair hearing in the dispensation of justice, both in criminal and civil case. These criteria include but not limited to the following:

The court or kuasi-judicial institution shall hear both sides not only in the case but also in all material issues in the case before reaching a decision. There shall be equal treatment opportunity and consideration to all parties concerned

The proceeding should be held in public and all concerned shall have access to and be informed of such public hearing. There shall be no language barrier in the process, where such barrier exists, an interpreter shall be made available, and that the final determination and decision must be made manifest and undoubtedly be seen within the body of the law.³

One may want to ask, are there limitations to the right of fair hearing? Yes, there are certain limitations which are well spelt out in international and municipal laws.

The right to fair hearing and fair trial stipulates that trials be done in the public to reflect transparency, and unbiased outcome. However, there are conditions as to why the right to fair hearing may not be absolute. Such condition includes: morals, public order, national security, the privacy of the parties in suit or when the opinion of the court publicity would prejudice the interests of justice.

In addition, suppression orders or closed door hearings may be justified in order to protect vulnerable witnesses e.g. children especially minors and or victims of sexual assault. There are also conditions that may warrant decision not be made public, for example, a family law matter. This condition is contained in Article 14 of the International Covenant on Civil and Political Rights (ICCPR).

Legal Framework

Different countries at different time have developed or adopted one document or the other in safeguarding the right to fair hearing. We will briefly discuss these legal frameworks as it relate to Nigeria.

³ Available at <http://www.ag.gov.au/fair-trial>, <http://preawin.org/member/forums> Article 14 of the ICCPR of 1966

International law

International Covenant on Civil and Political Rights (ICCPR).

Article 14(1) of the ICCPR states that all persons shall be equal before the law (Court and Tribunal) in the determination of any criminal charge against him or of his right and obligation in a suit of law, every one shall be entitled to fair and public hearing by a competent, independent and impartial tribunal established by law.

Article 14(2) of ICCPR states that, everyone charged with a criminal offence⁴ shall have the right to be presumed innocent until proved guilty according to the law.

Article 40(iii) of the Convention on the Rights of the Child (CRC) guarantees that a matter be determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular taking into account his or her age.

Article 40 (bii) of the Convention on the Rights of the Child (CRC) guarantees that the privacy of a child be fully respected at all stages of a proceedings. While, Article 13(1) of the Convention on the Rights of Persons with Disabilities (CRPD), states that parties shall ensure effective access to justice for person with disabilities on an equal basis with others.

Municipal law

In Nigeria, the right to fair hearing is guaranteed under section 36 (1) of the 1999 Constitution of the Federal Republic of Nigeria as amended. It provides as follows:

In the determination of civil rights and obligation, including any question or determination by or against any government or authority, a person shall be entitled to fair hearing within a reasonable time by a court or other tribunal established by law and constituted in such manner as to secure its independence and impartiality.

Without prejudice to the foregoing provisions of this section, a law shall not be invalidated by reason only that it confers on any government or⁵ authority power to determine questions arising in the administration of a law that affects or

⁴ Article 14(2) of International Covenant on Civil and Political Right (1966)

⁵ The Nigeria constitutional Law (2012) Princeton publishing Company Ikeja, Nigeria

may affect the civil rights and obligation of any person if such law-

(a) Provides for an opportunity for the person whose rights and obligation may be affected to make representation to the administering authority before that authority makes decision affecting that person; and

(b) Contains no provision making the determination of the administering authority final and conclusive.

The proceedings of a court or the proceedings of any tribunal relating to the matters mentioned in subsection (1) of this section (including the announcement of the decisions of the court or tribunal) shall be held in public.

Whenever any person is charged with a criminal offence, he shall, unless the charge is withdrawn, be entitled to a fair hearing in public within a reasonable time by a court or tribunal.

Some of the Complaints Received by the Commission on Right to Fair Hearing are as Follows

C/2021/IMS/02/CPR

The Commission received a complaint dated 15th January, 2021 from Y who resides in Imo State requesting for access to justice. Y alleged that two (2) of his sons have been in the Nigeria Correctional Centre for five (5) and two (2) years respectively without being taken to court.

Media Reports on Right to Fair Hearing

1. On 6th July, 2021 Daily Trust Newspaper on page 26 reported that Legal Defence and Assistance Project (LEDAP) has condemned the medial trial and police parade of Chidinma Adaora Ojukwu over the murder of super TB chief executive officer, Micheal Usifo Ataga. LEDAP in a statement said her parade by the Nigeria Police Force violated her fundamental right to fair hearing and presumption of innocence as provided by the constitution.

2. On 27th July, 2021 Daily Trust Newspaper on page 10 reported that Uduakabasi Akpan who was accused for killing Iniubong Umoren, a 26-year-old graduate of Philosophy from University of Uyo has pleaded guilty to murder but denied raping his victim.
3. On 28th July, 2021 This Day Newspaper on page 8 reported that the Senate suspended indefinitely its investigation into the alleged assault on Clement Sargwak by Chairman of the Code of Conduct Tribunal (CCT), Danladi Umar. But the lawyer to Sargwak, Timizing Benyir Remnap, condemned the move, saying the upper chamber is renegeing on its statutory duty to defend the rights of citizens.
4. On 29th July, 2021 The Guardian Newspaper on page 13 reported that the Edo State Police Command has arrested a Pastor from a popular Church in Benin City over plans to murder his wife, sister-in-law and father-in-law. The Pastor, Anselm Idele was arrested 24 hours to the execution of his plan.
5. On 30th July, 2021 The Guardian Newspaper on page 26 reported that the Imo State Police Command have arrested a suspected native doctor, Benneth Okoli, 49, who allegedly prepared charms for the bandits in the state.
6. On 3rd August 2021, Daily Trust Newspaper at page 28 reported that a magistrate court sitting in Ado Ekiti has ordered the remand of a 43-year-old, Akintunde Ojuawo, who is reasonable suspected to have committed murder of Rotimi Oluwasegun Olajide. Report had it that the magistrate ordered the remand of the suspect at the correctional facility and adjourned the case until September 8, 2021.
7. On 4th August, 2021 Daily Trust Newspaper at page 30 reported that an Ikeja magistrate court on Tuesday 3rd August, remanded a 20-year-old man, Oriyomi Sanni, who allegedly defiled an 11-year-old girl. The paper had it that the magistrate did not take Sanni's plea before remanding him at Kirikiri Correctional Centre.
8. On 6th August, 2021 The Guardian Newspaper at page 2 reported that Endsars protester, Bukunmi Ayodele regained her freedom where she had been detained and abandoned in Ondo State prison for many months after police arrested her for protesting in October 2020.
9. On 18th November, 2021 Daily Trust Newspaper at page 27 reported that the families of late J.B. Osuhor of Umunnede in Delta state and late Wilfred Obiora Efife in

Anambra State had petitioned the Inspector General of Police (IGP) over illegal continued detention of two of their family members who had been linked to the death of one Mrs. Bibian Osuhor.

Conclusion/Recommendation

This chapter has shown the importance of the right to fair hearing in the dispensation of justice. It is an important aspect of human existence. Conflict is part of the human race. Hence, every government whether military or civil rule, must ensure this important right is not tampered with and must be adhered to in all trial.

The right to a fair, just and impartial hearing according to Natural justice or the fair hearing provisions of the international and domestic laws cannot be ousted by any law no matter the situation. It is the only fundamental or constitutional right that cannot be denied by law. It is an inherent right to every person who is called in any adjudication of dispute to have a fair hearing. Essentially, therefore, the dispensation of the right to fair hearing can be demonstrated when the court is not determining its own case directly or indirectly, and the parties are given equal opportunity to present their cases before decision is reached.

From the submission above, it is recommended at all time, even during crisis, the fundamental nature of right to fair hearing and its inalienability from the personality of every human being must be respected. A situation where a person's right to fair hearing is infringed, such judgment or decision may be set aside and declared null and void.

On the other hand, judges and those sitting over dispute in their respective capacities should do away with bias and myopic sentiment which are the most obstacles towards achievement of any fair hearing. The un-biasness in the dispensation of justice will bring about reality in determination of matter rather than myth.

Finally, the judiciary and other justice dispensing institution are made to be independent in the true sense of it. A situation where judicial officers are pressurized by certain forces to give biased judgment is very unhealthy to any nation trying to guarantee human rights. More so, in a situation where sound judgment cannot be deliberated, anarchy can easily be foreseen and the establishment of such judicial institution will amount to a waste of time and resources on the part of the government. Right to fair hearing is a cornerstone to social co-existence and

it is desirable that it should not be stamped. Condemnation before fair trial should be discouraged and erring judicial official should be punished.

CHAPTER SIX

RIGHT TO FREEDOM FROM DISCRIMINATION

By

Obinna Nwakonye*

Introduction

In spite of enormous progress at the local and international levels in enhancing the legal protection of individuals and groups of individuals from discrimination, reports from every state of the Federation and, indeed the world over, confirm the fact that discriminatory acts and practices are very much in high gear within the period of this report. Discrimination is multifaceted and present not only in State or public spheres but also in the civil society in general.

Invariably, discrimination has different causes and may affect people of different communal, cultural, ethnic, national or social origin in different ways. It affects the way people are treated in all walks of life such as work place, politics, education, employment, social and medical services, housing, the penitentiary system, law enforcement and the administration of justice¹.

Discrimination based on gender is also commonplace in spite of the progress being made by government and civil society organizations. There are still Laws and practices which, inter alia, deny women the right to represent matrimonial property, the right to inherit on an equal footing with men, and the right to work and travel without the permission of their husbands². Women are also particularly prone to violent and abusive practices, which continue unabated in many communities and states. Some women often suffer double jeopardy of discrimination both because of their origin and because of their gender. A major problem, in recent times, is the discrimination to which numerous people, especially women and children, are subjected to because they live in poverty or extreme poverty; and the effects of terrorism, banditry and kidnaping which are prevalent in all states of the Federation. These

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¹ 'The Right to Equality and Non-Discrimination in the Administration of Justice: A Manual on Human Rights for Judges, Prosecutors and Lawyers', <<https://www.un.org/ruleoflaw/files/training9chapter13en.pdf>> accessed on 22 April, 2022.

² Amnesty International, 'what we do: Discrimination' (amnesty.org) <<https://www.amnesty.org/en/what-we-do/discrimination/>> accessed on 20 April, 2022.

circumstances might have forced them to migrate into Internally Displaced Persons (IDPs) settlements and contributed to an increase in trafficking in persons, particularly women and children, who are also frequently subjected to physical restraint, violence and intimidation.

Conceptual Clarification/Definition

Discrimination is the act of making unjustified distinctions between people based on the groups, classes, or other categories to which they belong or are perceived to belong. People may be discriminated on the basis of race, gender, sexual orientation or preferences³. It can also be aimed at people of different cultural, linguistic or religious origin; the elderly, persons with disabilities or health conditions such as persons living with the HIV Virus or AIDS.

Discrimination occurs when a person is unable to enjoy his or her human or other legal rights on an equal basis with others because of an unjustified distinction made in policy, law or treatment. It is also when you are treated less favourably than another person in a similar situation and this treatment cannot be objectively and legally justified. Discrimination can also occur if you are disadvantaged by being treated the same as another person when your circumstances are different (for example health, disability or pregnancy)⁴.

Types of discrimination

The right to equality or non-discrimination encompasses both positive and negative obligations - the obligation to refrain from discriminating or eroding equality and the obligation to protect and advance the fulfilment and enjoyment of the rights to equality and non-discrimination for all people. Amnesty International observed that discrimination is harmful and perpetuates inequality. 'It is harming someone's rights simply because of who they are or what they believe ... discrimination, therefore, strikes at the very heart of being human'⁵. Everyone has the right to be treated equally regardless of race, ethnicity, nationality, class, caste, religion, belief, sex, language, sexual orientation, gender identity, sex characteristics, age, health or other status. Yet all too often we hear heartbreaking stories of

³ Amnesty International '*the unjust or prejudicial treatment of different categories of people on the grounds of race, age, sex, or disability*', <<https://www.google.com/search/channel=firefod-b-d&k==discrimination>> accessed 20 April, 2022.

⁴ Amnesty International, 'what we do: Discrimination' (amnesty.org), <https://www.amnesty.org/en/what-we-do/discrimination/> accessed on 20 April, 2022.

⁵ Amnesty International 'The Right to Equality and Non-Discrimination in the Administration of Justice'. Ibid.

people who suffer cruelty simply for belonging to a “different” group from those in positions of privilege or power⁶.

Forms of discrimination

Discrimination can take various forms: Direct discrimination is when an explicit distinction is made between groups of people that results in individuals from some groups being less able than others to exercise their rights. For example, a law that denies women, the right to participate in a voting process or to own certain assets or property, would constitute direct discrimination on the grounds of sex.

Indirect discrimination is when a law, policy, or practice is presented in neutral terms (that is, no explicit distinctions are made) but it disproportionately disadvantages a specific group or groups. For example, a law that requires everyone to provide proof of a certain level of education as a prerequisite for voting has an indirect discriminatory effect on any group that is less likely to have achieved that level of education such as disadvantaged ethnic groups or gender.

Intersectional discrimination is when several forms of discrimination combine to leave a particular group or groups at an even greater disadvantage. For example, discrimination against women frequently means that they are paid less than men for the same work. Discrimination against an ethnic minority often results in members of that group being paid less than others for the same work. Where persons from a particular group are paid less than those from other group, they are suffering from intersectional discrimination on the grounds of their sex, gender and ethnicity⁷.

Discrimination is often fuelled by prejudice based on concepts of identity, and the need to identify with a certain group. This may lead to division, hatred and even the dehumanization of other people because they have a different identity⁷.

In many states of the Federation, the politics of blame and fear are ignited by agent provocateur, intolerance, hatred and distrust. The attendant discrimination ensues, causing an ever-widening rift in societies. The politics of fear is driving people apart as leaders peddle

⁶ Amnesty International ‘Todic Rhetoric and Demonization’, <<https://www.amnesty.org/en/what-we-do/discrimination/>> accessed on 20 April, 2022

⁷ Paul Gordon Lauren, ‘*Power and Prejudice—The Politics and Diplomacy of Racial Discrimination*’, (2nd edn. Boulder/Oxford, Westview Press), 99-100.

toxic rhetoric, blaming certain groups of people for social or economic problems. Some people in government try to reinforce their power and maintain the status quo by openly justifying discrimination in the name of morality, religion or ideology.

Legal Framework

International

Article 2 of the Universal Declaration of Human Rights (1948)⁸ states that:

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it is independent, trust, non-self-governing or under any other limitation of sovereignty.

The above provision entails that every human entity is equal in rights and should be accorded same attention, consideration and regard. This is in consonance with the tenets of Human Rights-Based Principles which demands that every relationship with every person in every field or space should be treated equal in Participation, Accountability, Non-discrimination, Equality and Legality (PANEL). The framework guarantees civil, political, economic, social and cultural freedom and rights all persons individually and collectively.

No matter what kind of right is at stake, there are basic principles that are always part of human rights standards and implementation. These principles include:

Universality which states that human rights must be afforded to everyone, without exception;

Accountability holds that Governments must create accountability mechanisms for the enforcement of rights and effective measures put in place so that the government can be held accountable if those rights standards are not met;

Indivisibility implies that human rights are indivisible and interdependent, which means that in order to guarantee civil and political rights, a government must ensure economic, social and cultural rights (and vice versa). The indivisibility principle recognizes that if a government violates rights such as health, it necessarily affects people's ability to exercise other rights such as the right to life.

⁸ United Nations, 'Universal Declaration of Human Rights (1948)' Article 2, <<https://www.un.org/en/about-us/universal-declaration-of-human-rights>>, accessed 21 April, 2022.

Transparency means that governments must be open about all information and decision-making processes related to rights. People must be able to know and understand how major decisions affecting rights are made and how public institutions, such as hospitals and schools, which are needed to protect rights, are managed and run.

Participation implies that people have a right to participate in how decisions are made regarding protection of their rights. This includes but is not limited to having input on government decisions about rights. To ensure human rights, governments must engage and support the participation of civil society on these issues.

Non-Discrimination means that human rights must be guaranteed without discrimination of any kind. This includes not only purposeful discrimination, but also protection from policies and practices which may have a discriminatory effect.

Other International frameworks that buttress freedom from discrimination include International Covenant on Civil and Political Rights, 1966; International Covenant on Economic, Social and Cultural Rights, 1966; International Convention on the Elimination of All Forms of Racial Discrimination, 1965; Convention on the Elimination of All Forms of Discrimination against Women, 1979; Convention on the Rights of the Child, 1989; Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief; Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, 1992.

Regional

Drawing from stipulations of International Frameworks, some Africa Institutions propounded Instruments for regional advocacy on the rights of freedom from discriminations.

The African Charter on Human and Peoples Right (1981)⁹ devoted a large portion of its treaty on Civil and Political Rights to converse for freedom from discrimination.

Article 2: of the Charter stipulates that:

Every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the

⁹ African Commission on Human and People's Rights, 'The African Charter on Human and People's Rights :Rights and Duties', <<https://www.achpr.org/legalinstruments/detail?id=49>>, Accessed 22 April, 2022.

present Charter without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or other opinion, national and social origin, fortune, birth or other status.

Article 3: *Every individual shall be equal before the law” and “Every individual shall be entitle to equal protection of the law.*

Article 4: *Human beings are inviolable. Every human being shall be entitled to respect for his life and integrity of his person. No one may be arbitrarily deprived of this right.*

Article 5:

Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.

Article 6:

Every individual shall have the right to liberty and to the security of his person. No one may be deprived of his freedom except for reasons and conditions previously laid down by law. In particular, no one may be arbitrarily arrested or detained”.

These are contracts binding nation states and individuals and meant to guide relationship and communication between entities within the region.

The African Charter on the Rights and Welfare of the Child, 1999 is also specific on the need for children to be treated without any form of discrimination both physically and psychologically.

Article 3 of the Charter titled Non-discrimination, emphasized that;

Every child shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in this Charter irrespective of the child’s or his/her parents’ or legal guardians’ race, ethnic group, colour, sex, language, religion, political or other opinion, national and social origin, fortune, birth or other status.

The summation of these articles is that the right of freedom from discrimination is an entitlement of every human entity and it shall be so observed and so treated.

Domestic

The 1999 Constitution of the Federal Republic of Nigeria¹⁰ provided for and guarantees the protection of the rights of every Nigerian without distinction. *...and no one shall take or violate any of the rights protected without due process of the law.* The Constitution also provides that anyone whose right is being, has been or is likely to be violated has the right to seek for remedies or redress in a court of competent jurisdiction.

Amongst the rights expressly listed in the 1999 Constitution, Chapter IB is the *right to freedom from discrimination on grounds of ethnic group, place of origin, circumstances of birth, sex, religion or political opinion*¹¹. Even Chapter 11, which is mostly on Economic, Social and Cultural Rights and therefore meant to be non-justiciable, has been saved from the platter of discrimination by the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in 1993 which emphasized that human rights are universal, indivisible, interdependent and interrelated.

Furthermore, The Nigeria government had at different times created legislated institutions that reinforce its commitment to freedom from discrimination, such as:

National Human Rights Commission (NHRC) - to promote and protect the rights of everyone against all forms of human rights violation including discrimination;

The Federal Character Commission (FCC) - to ensure that no part of the Federation is short changed in employment into public service; Public Complaint Commission (PCC) - to check acts of injustice (discrimination) in public service; Legal Aids Council (LAC) - to assist victims of discrimination to get justice; National Commission for persons with Disabilities (NCPWD) - to protect its constituency; National Senior Citizens Centre (NSCC) - for the protection of the rights of elderly person etc.

There are other policies of government that curtails discrimination in the Nigeria such as National Social Protection Policy (NSPP) through Social Security and Labour Market

¹⁰ 'Constitution of the Federal Republic of Nigeria', Chapters 2 and 4.

¹¹ National Human Rights Commission, 'frequently asked questions on Human Right', (A publication of the Human Rights Education and Promotion Department of the National Human Rights Commission of Nigeria) 6.

Interventions¹². The government under President Muhammadu Buhari GCFR strives intensely to implement the Sustainable Development Goals (SDG) through policy changes, budget provision and programme effectiveness, to 'leave no one behind'¹³. Also in his 'forward' to Nigeria's National Development Plan (NDP), 2021 – 2025 the President emphasized that Plan is a *blueprint designed to unlock the country's potentials in all sectors of the economy for a sustainable, holistic and inclusive national development, developed by the different facet of the Private Sector, Sub-national Government, and Civil Society Organization (CSOs) and facilitated by the Federal Government of Nigeria.*

This was deliberately done for inclusiveness, participation and citizen engagement to ensure no one is left behind¹⁴. The Government also has been strenuous in meeting the demands of National Action Plan NAP11 of Open Government Partnership (OGP)¹⁵ in different facets of its administration with greater emphases on the Thematic Areas of Commitment 13: Citizens Engagement and Commitment 14: Inclusion and Diversity. These are meant to diminish the scope of discrimination amongst the populace.

Some of the Complaints Received by the Commission on Right to Freedom from Discrimination are as Follows

ESO/2021/85

The Commission received a complaint on 19th March, 2021 from Y who resides at Amufu, Isi-Uzo Local Government Area, Enugu State. Y alleged that he was ostracized from his community because of his religious beliefs.

C/2021/88/AKS

The Commission received a complaint dated 15th June, 2021 from D who lives at Use Offot, Uyo, Akwa-Ibom State, against Y, her step brother. D alleged that on 6th June 2021, her step brother sold their father's properties without her consent because she is a female child.

¹² Ministry of budget and National Planning, 'National Social Protection Policy 2017', 'Policy Measures: minimum Package of Protection' (Ministry of budget and National Planning. Precious-Elle Printers, Abuja) 42.

¹³ The Office of the Senior Assistant to the President on SDGs OSSAP SDGs, 'Nigeria Sustainable Development Goals (SDGs), Indicators Baseline Report, 2016', (The Office of the Senior assistant to the President on SDGs, Federal Secretariat complex Phase 2, FCT Abuja and the National Bureau of Statistics (NBS), Central Business District, FCT, Abuja) id.

¹⁴ Federal Ministry of Finance Budget and National Planning, 'National Development Plan (NDP) 2021- 2025' https://nationalplanning.gov.ng/wp-content/uploads/2021/12/NDP-2021-2025_AA_FINAL_PRINTING.pdf accessed on 23 April, 2022

¹⁵ Open Government Partnership (OGP) Nigeria, "Open Government Partnership OGP National Action Plan (2019-2020)", (F.U. Communications Ltd., Kano-Nigeria) 94 & 106

NHRC/ABS/2021/032

The Commission received a complaint dated 17th March, 2021 from D who lives at Umunneochi Community, Abia State, against Y her uncle. D alleged that her uncle was attempting to deprive her son of inheritance because he was born out of wedlock in her maiden home. D alleged that on 14th March 2021, she was summoned to the Eze's palace and told categorically that neither she nor her son was entitled to any of her father's property and that her son may just be given only one portion out of the vast expanse of land left behind by her late father. She complained of discrimination and unfair treatment.

C/2021/61/AKS

The Commission received a complaint dated 8th April, 2021 from D against Y her brother. Both of who lives at Nung Oku, Uyo, Akwa-Ibom State. D alleged that Y, her brother, threw out her property upon her return to their father's house following her failed marriage because she is a female.

ESO/2021/131

The Commission received a complaint dated 30th April, 2021 from D who lives at Udenweze Street, New Haven, Enugu State. D alleged that Y, her brother, threatened to eject her from their father's house because she is female; urging her to marry and leave.

ESO/2021/101

The Commission received a complaint dated 1st April, 2021 from D alleging that Y, her husband discriminated against their female children by denying them the right to education and is also guilty of domestic violence.

C/2021/203/AKS

The Commission received a complaint dated 13th December, 2021 from D who resides at Abak Local Government Area of Akwa Ibom State., against Y, her step son. D alleged that on 12th December 2021, her step-son threatened to eject her from her husband's house on account of the fact that she does not have a child. She further alleges humiliation due to childlessness.

C/2021/176/AKS

The Commission received a complaint dated 2nd November, 2021 from D who resides at Atiku Abubakar Street, Uyo, Akwa-Ibom state. D alleged that Y, her brother, has taken over all the properties left for them by their late parents on the ground that she is a female.

Media report on right to freedom from discrimination

1. On 20th August, 2021 This Day Newspaper at page 51 reported that the former Dean of School of Engineering Federal Polytechnic Ilaro, Ogun State, said that full implementation of the Discrimination Against Persons with Disabilities (Prohibition) Act 2018 by the three tiers of government is a remedy to integrating the physically challenged in all areas of human endeavour to reduce discrimination, marginalisation and oppression of PWDs across the country.
2. On 14th July, 2021 Daily Trust Newspaper on page 24 reported that the Kano State Hisbah Board has arrested five men suspected of engaging in homosexuality at sheka Barde in Kumbotso Local Government Area of Kano. The Commander General of the Board, Harun Ibn-Sina confirmed the arrest in a statement issued and signed by Malam Lawal Ibrahim, Public Relations Officer of the board.
3. On 2nd September 2021, The Guardian Newspaper at page 9 reported that Nigerians have been advised to stop discriminations against people living with challenges in the society. This was made in the statement by president of Deaf Supporters Development Initiative (DSDI), Mr. Afolabi Dahunsi at their 30 years' anniversary.
4. On 17th September, 2021 This Day Newspaper at page 16 reported that the Executive Secretary, Benue State Emergency Management Agency (BSEMA), Mr. Emmanuel Shior, had expressed concern over the conditions of Internally Displaced Persons (IDPs) following the inability of the federal government to release the funds it has promised for their care.
5. On 24th September, 2021 The Guardian Newspaper at page 28 reported that Persons Living with Disabilities (PLWD) had expressed anger over the seeming neglect and absence of the 18 gubernatorial candidates jostling to participate in the November 6, 2021 election at debate.
6. On 8th October, 2021 Daily Trust Newspaper at page 30 reported that women and physically challenged persons in plateau State had expressed concern over poor representation in Saturday's local government elections across the state.

7. On 8th December, 2021 This Day Newspaper at page 41 reported that the Kwara State Governor, Abdulrahman Abdulrazak, had set a new record in gender inclusion in public office, when he assented to an executive bill mandating the state to have at least 35% women appointees in the state executive council and other classes of political appointments.

Conclusion

In conclusion, government through its agencies have been making effort to ensure that the citizens and residence in Nigeria are protected from various shades of discrimination through provisions and programs, but the duties to checkmate acts and practices of discrimination is the responsibility of everyone especially people in leadership positions in government, traditional gatekeepers and duty bearers, institutions of learning, women leaders, religious leaders, including social media influencers. Everyone should apply human rights-based principles both in service delivery and in relationship with everyone. These are Participation, Accountability, Non-discrimination, Equality and Legality (PANEL)¹⁶

Institutions both public and private that engage in activities that promotes and protects the rights of the people from discrimination should be given adequate protection and incentives to widen the scope of their activities.

Persons in government or civil leadership should refrain from actions and nuances that give the public the impression that they are being discriminated for or against especially in handling issues of security in Nigeria.

¹⁶ 'Human Rights Based Approach', <<https://unsdg.un.org/2030-agenda/universal-values/human-rights-based-approach>> Accessed on 23 April 2022.

CHAPTER SEVEN

RIGHT TO PRIVATE AND FAMILY LIFE

By

Nabila Badamasi Tahir*

Introduction

Privacy is a fundamental human right, enshrined in numerous international and domestic instruments. It is central to the protection of human dignity and forms the basis of any democratic society. It also supports and reinforces other rights, such as freedom of expression, information and association. This right embodies the presumption that individuals should have an area of autonomous development, interaction, and liberty, 'a private sphere' with or without interaction with others, free from arbitrary state intervention and from excessive unsolicited intervention by other uninvited individuals.¹

The respect for private and family life is a fundamental right protected also in the European Convention for Protection of Human Rights and fundamental freedoms (ECHR)². It aims essentially to prevent any arbitrary interference by the public authorities in the private and family sphere of every individual. The European Convention possesses dual structure, the first paragraph defines the scope of the protected right – the right to respect for private and family life while the second paragraph lays down on which grounds member states may legitimately interfere with the enjoyment of such right.

According to ECHR, the notion of family life is not confined solely to families based on marriage, and may encompass other relationships including whether the couple live together, the length of their relationship and whether they have demonstrated their commitment to each other by having children together or by any other means³.

The chapter discusses the laws that promote and protect the right to private and family life. It will discuss the specific circumstances the rights can be restricted and violated.

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¹ M Scheinin 'Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while countering Terrorism' (Geneva 2009 A/HRC/10/3) 8

² Article 8 ECHR

³ I Inocolau, 'Respecting the Right to Private and Family Life of Roma and Nomads in European Union' (2016) *Journals of Law and Administrative Science*. Available online at <https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/jladsc5§ion=18> accessed 2 August 2022.

Clarification of Terms/Definition

Private life

Private life is when you have a right to live your life privately, and enjoy family relationships, your home and your correspondence without interference from government⁴. It covers things like sexuality, body, personal identity, forming and maintaining relationships with other people, how your personal information is held and protected.

Family life

Family life includes the right to have and maintain family relationships. It covers your right not to be separated from your family and to maintain contact if your family is split up.⁵. Relationships covered by family life include relationships between parents and their children, husband and wife as well as unmarried couples and siblings.

Legal Framework

International

The Universal Declaration of Human Rights (UDHR) under Article 12 stipulates:

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference...

The concept of privacy enshrined in above provision has become even more central to our lives, with the increase in data collection by government and business. Privacy is often asserted as a gateway right that reinforces other rights, online and offline, including the right to equality and non-discrimination, and freedom of expression and assembly⁶. One of the main themes of the UDHR is that it allows us to protect ourselves from unwarranted interference in our lives, and to determine how we want to interact with the world. Privacy helps us establish boundaries to limit who has access to our bodies, places and things, as well as our communications and our information's.

⁴ Equality & Human Rights, 'Equality & Human Right Assessment.' Available online at <https://www.google.com/url?esrc=s&f=&rct=j&sa=U&url=https://ekhria.scottishhumanrights.com/ekhriatrainingarticle8.html&fcd=2ahUKEwjMoauPocb3AhB-h_0HHahcDcIKFnoECAIKAg&usq=AO6Baw0JZBHGIF9bNgKHksecB3Db> accessed 10 April 2022.

⁵ ibid

⁶ Article 12 UDHR

The International Convention on Civil and Political Rights (ICCPR) under Article 17 (1) & (2) stipulates:

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.
2. Everyone has the right to the protection of the law against such interference or attacks...

The above provision stipulates the right to privacy, family, home, correspondence and protection of honour and reputation, under the ICCPR, expressed in 1988, demands that working of state surveillance be subject to legality through clear and precise law, which law itself must look to safeguard the right to privacy.⁷ The convention also provides that in order to have the most effective protection of private life, every individual should have the right to ascertain in an intelligible form, what personal data is stored in automatic data files and for what purposes in a gathering and holding of personal information on computers, data banks and other devices whether by public authorities or private individuals or bodies.

Similarly, Article 14 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW) protects migrants' workers and their families from arbitrary interference with their family life and privacy. Article 16 of the Convention on the Rights of the Child (CRC) and Article 22 of the Convention on the Rights of Persons with Disabilities (CRPD) also guarantee privacy rights for Children and Persons with Disabilities (PWDs).

The European Convention on Human Rights provides that;

Everyone has the right to respect for his private and family life, his home and his correspondence...

From the above, it is clear that the right to family life is a right that ought to be expressly provided for and not subsumed under or implied in another right⁸. The case of *Goodwin & I 6 United Kingdom*⁹, the European Court of Human Rights explored issues for transsexual people in relation to their rights to private life and to marry. The judgment was a landmark decision for the treatment of transsexual people, a group which had not been recognised in

⁷ Article 17 ICCPR

⁸ Article 8 ECHR

⁹ EHRR (1996) 22

UK law as their acquired gender, able to hold birth certificate showing their acquired gender and able to marry someone of the opposite gender. The Court ruled that this treatment violated both the right to private life and the right to marry. The UK Government later introduced the Gender Recognition Act 2004, creating a mechanism to enable all these things.¹⁰.

Domestic

The 1999 Constitution of the Federal Republic of Nigerian as amended provides that:

The privacy of citizens, their homes, correspondence, telephone conversations and telegraphic communications is hereby guaranteed and protected...¹¹.

This is one of the right which has not received legal attention. The inclusion of the right to private and family life in the Bill of rights can be said to represent a conviction that this right is worth protecting for Nigerians. The right to privacy is linked to the dignity and autonomy of human beings, values which are at the core of the protection of fundamental human rights. The Constitution also provides that every person is entitled to respect for the dignity of his person. It is no doubt that privacy ranks very high in the indices of the respect for the dignity of an individual¹²

¹⁰ Human rights, human lives: A Guide to the Human Rights Act for public authorities' Available online at <https://www.google.com/url?esrc=s&k=&rct=j&sa=U&url=https://www.equalityhumanrights.com/en/human-rights-act/article-8-respect-your-private-and-family-life&ved=2ahUKEwiptciD8J_3AhU2hP0HHUUF4oKFD0ECAAkBA&usq=AO6Baw0YPbKP4YsohcmcwcuZAHNj> accessed on 15 April 2022

¹¹ Section 37

¹² E S Nwauche 'Right to Privacy in Nigeria' Available online at <https://www.google.com/url?esrc=s&k=&rct=j&sa=U&url=http://www.nigerianlawguru.com/articles/constitutional%20law/THE%20RIGHT%20TO%20PRIVACY%20IN%20NIGERIA.pdf&ved=2ahUKEwi945rBn8b3AhUO_rsIHB2cDKgKFnoECAIKAg&usq=AO6Baw2ZdKJ_Jh-5G3Cynkgm-Diu> accessed 15 April 2022.

Violations and Restrictions on Right to Private and Family Life

The right to privacy is one of the fundamental human rights enshrined in the Nigerian Constitution¹³. It is also an imperative for individual welfare and well-being. Despite this, the violation of privacy is not a well litigated area in Nigeria. This is due to the fact that Nigerians tolerate a lot of things which normally should constitute a violation of their privacy. The learned author, Lloyd Megwara¹⁴ provides a broad exposition of what the right to privacy guaranteed by the 1999 Constitution entails in the following words:

The right to private life encompasses the right to live in isolation of others, the right to protect one's social, interpersonal relationships, (inclusive of sexual and marital relationships), the right of concealment of one's nudity (body anatomy) from public glare and the right of an individual over his own body (inclusive of what goes in and out of his body). It follows that the right to privacy implies the right to protect one's body from unauthorized intrusion or invasion....

The 1999 Constitution of the Federal Republic of Nigeria guarantees the right of every person to his home and correspondence. The court in **Ezeadukwa v. Maduka**¹⁵ affirmed this view. By virtue of this, it is illegal and unconstitutional for the police or any other security official to search any person's residence without lawful warrant, they have no right to search any individual's body on the road, seize and search a person's telephone etc. To invade a person's home or correspondence, the authorities must obtain a warrant. It is unconstitutional to carry out surveillance activities in and around a person's home or over his telephone and other correspondences except such is justifiable under section 45 of the 1999 Constitution. The ejection of families and individuals from their homes has been held to amount to a violation of this right¹⁶.

¹³ Section 37, 1999 Constitution of the Federal Republic of Nigeria (as amended)

¹⁴ L Megwara, *The Law and Practice of Human Rights in Nigeria* (Olibe Printing & Publishing House, 2010) 202.

¹⁵ A Ibidapo-Obe, *Essays on Human Rights Law in Africa* (Concept Publications Ltd, 2005) 260; O Ogbu, *Human Rights Law and Practice in Nigeria* (2nd revised edn, Snaap Press Ltd 2013) 280-281

¹⁶ Kokoro-Owo & Ors v Lagos State Government & Ors (1995) 6 NWLR (Pt 404) 760 CA

The African Charter on Human and People's Right does not have a direct clause on the right to privacy. It was omitted for the purpose of promoting African values and tradition which is characterized by ideology¹⁷.

The right to privacy may be restricted, but any interference must be covered by law, necessary and do not more than is needed (i.e. be proportionate) to meet one of the legitimate aims of protecting national security, public safety or the country's economic wellbeing, preventing disorder or crime, protecting health or morals, protecting other people's rights and freedom from others¹⁸.

In some circumstances, the state must take positive steps to prevent intrusions into a person's private life by other people. For example, the state may be required to take action to protect people from serious pollution where it is seriously affecting their lives.

Some of the Complaints Received by the Commission on Right to Private and Family Life are as Follows

NHRC/NGSO/2021/088

The Commission received a complaint dated 24th August, 2021 from D who resides at Shaku, Lapai Local Government Area, Niger State. D alleged intimidation and threat to her safety and that of her uncle, who is protecting her from Y, her father, because she refused to marry the man of his choice.

NHRC/2021/10/CAL

The Commission received a complaint dated 9th February, 2021 from D who alleged that her neighbour has a wild dog in their compound and has refused to construct a cage for the dog thereby endangering the lives of her twin daughters.

Conclusion

The individual does not exist in a vacuum, but in the family. All the other rights guaranteed by Chapter IB of the 1999 Constitution of the Federal Republic of Nigeria can only be situated properly within the family context, where the individual is designed to flourish. The right to family life is a right that is beneficial not only to the child, but to the entire nation, which comprises millions of families. If the family is protected, the entire nation is protected.

¹⁷ Supra note 3

¹⁸ Section 45, 1999 Constitution of the Federal Republic of Nigeria (as amended)

Conversely, the neglect of the family is the neglect of the nation. This truism appears too simplistic as a solution to the complex Nigerian problem, but it is the true solution.

Recommendation

To better protect the right to private and family life, the government of Nigeria should reform Nigeria's security agencies so that they are regulated by laws that clearly prescribe their powers, establish oversight mechanisms, and meet with international human rights standard.

The Federal Government of Nigeria should also take necessary measures to strengthen independent judicial authorization and oversight mechanisms as well as implement media and information literacy programs to enhance public awareness regarding the importance of privacy. Overall, any person whether law enforcement personnel or a private citizen that violates or abuses the right of anyone to private and family life should be punished according to the law.

CHAPTER EIGHT

FREEDOM OF THOUGHT, CONSCIENCE AND RELIGION

By
Comfort Olowomoran*

Introduction

Freedom of thought, Conscience and Religion is a fundamental human right. Everyone has the right to freedom of thought, conscience and religion. This right is a basic right that is extremely important. It connotes that all persons have the right to think freely, and to entertain ideas and hold positions based on conscientious or religious or other belief. This right includes freedom to change one's religion or belief and freedom - either alone or in community with others and in public or private – to manifest one's religion or belief, in worship, teaching practice and observance.¹

The Freedom of thought, Conscience and Religion is absolute. However, it may be qualified and can be interfered with in certain circumstances by the state. One of such cases could be to protect public safety, order, health, or morals or the fundamental rights and freedoms of others²; or even in the interest of national security.³

This Chapter shall give a brief discussion on the rights to Freedom of thought, Conscience and Religion, beginning with conceptual clarification of some key words, the legal framework guaranteeing the rights, circumstances where the right is restricted or qualified; a brief discussion of the regular perpetrators or violators of this right. The instances of religious intolerance/ non-tolerance of behaviours of Christians as well as complaints received touching on the rights to Freedom of thought, Conscience and Religion are also highlighted, with conclusion and recommendations. Whether the violation is perpetrated by State or non-State actors, this chapter is of the view that the violation of this right is at an alarming rate.

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¹ Article 9, Human Rights Act, 1998, available online at <<https://www.ekualityhumanrights.com/en/human-rights-act/article-9-freedom-thought-belief-and-religion>> accessed 1 November, 2022

² Article 18(3) of the International Covenant on Civil and Political Rights (ICCPR)

³ Article 4 of the ICCPR

Therefore, responsible government authorities need to put in place viable structures in order to put in check the rising trend of the violation in view of the reported cases so far.

Conceptual Clarification/Definition

There is a need to clarify the meaning of the concepts, freedom of thought, freedom of conscience and freedom of religion as applied in this Chapter in order to aid clear thinking.

Freedom of thought

Freedom of thought is one of the strongest human rights, enshrined in almost every human rights treaty.⁴ Although its protection is absolute in nature, it is however less clear what this inviolable sphere comprises.⁵ In an attempt at a definition, ‘thought’ – the object of the protection - refers to the inner world of the person, her psychological landscape and the mental processes that are involved in thinking, forming and revising opinions, ideas and beliefs.⁶

It is difficult to inform one's thoughts without the freedom to express oneself and to exchange information. Freedom of thought is important in order for one to express himself in the first place. In other words, the respective protection and fulfilment of the right to freedom of thought of the individual must promote, rather than discourage, mutual respect for and tolerance of other's thoughts. “Without freedom of thought there can be no such thing as wisdom and no such thing as public liberty without freedom of speech”⁷

Freedom of conscience

The right to freedom of conscience is political right that protects people's ability to do what they believe is morally best. This right protects a person from mandatory participation in an activity if the activity in question threatens the fundamental values of an individual person. The right to freedom of conscience protects the right to life in accordance with our deeply held beliefs. Despite being protected by every major human rights treaty, this right is poorly understood and undermined.

⁴ C Bublitz, ‘Freedom of Thought in the Age of Neuroscience: A Plea and a Proposal for the Renaissance of a Forgotten Fundamental Right’ (2014) 100(1) *Archiv fuer Rechts- & Sozialphilosophie (ARSP)*, 1, available at <https://www.academia.edu/34578713/Freedom_of_Thought_in_the_Age_of_Neuroscience_A_Plea_and_a_Proposal_for_the_Renaissance_of_a_Forgotten_Fundamental_Right?auto=citations&from=cover_page> accessed 1 November, 2022

⁵ *ibid*, particularly at 2

⁶ *ibid*

⁷ Available online at <<https://njhumanities.org/humanities-to-go/psp/what-is-the-meaning-of-free-speech/>> accessed 7 November 2022

Conscience shapes human choices and distinguished human beings from other creatures. Freedom of conscience is at its heart but still larger than the freedom of Religion or belief. It covers all ethics and values of human being cherishes, whether of religious nature or not. There are no admissible limitations to this freedom, as long as personal convictions are not imposed on others or harm them. While it may seem evident, respect for freedom of conscience is hard to attain. People tend to judge convictions of others. Furthermore, it is very common that those who hold a conviction defend it. What is less common but more needed is that we all stand up to defend everyone's right to their own convictions.⁸

Freedom of religion

Religious freedom is a fundamental human right and the first among rights guaranteed by the United States Constitution and the Constitution of the Federal Republic of Nigeria, 1999 as amended. It is the right to think, express and act upon what you deeply believe, according to the dictates of conscience.

The right to freedom of religion includes the freedom to change one's religion or belief and the freedom, either alone or in community with others and in public or private, to manifest one's religion or belief in teaching, practice, worship and observance.⁹

Religion has a vital place in the society. To exert its positive influence, religious organizations and people need physical, social and legal space to practice their religion. Religion is not just private worship; it involves public expression on social and moral issues. Religious organizations and people are responsible to state their views reasonably and respectfully.

Interrelation of the Three Concepts

Freedom of thought (also called freedom of conscience or ideas) means that everyone has the right to freedom of thought, conscience and religion. This right includes freedom to change religion or belief and freedom, either alone or in community with others and in public or private, to manifest religion or belief, in worship, teaching, practice and observance.

⁸ Available online at <Ohchr.org/en/faith-for-rights/faith4rights-toolkit/module-1-freedom-conscience> accessed 7 November 2022.

⁹ (n1); Section 38, Constitution of the Federal Republic of Nigeria, 1999 (as amended).

Legal Framework

Freedom of thought, conscience and religion as a fundamental human right is guaranteed by International, regional and domestic human rights instruments. Thus, the Nigeria's government's commitment to respect fundamental freedom and human rights is also demonstrated by the fact that Nigeria is a party to all major regional and international human rights instruments.

International instruments

Nigeria as member-state of the United Nation (UN) has signed and ratified several international and regional human rights instruments that guarantee and protect the right to freedom of thought, conscience and religion. These instruments include the Universal Declaration of Human Rights,¹⁰ International Covenant on Civil and Political Rights¹¹ and the UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on religion or belief¹², International Convention on the Elimination of all Forms of Racial Discrimination.¹³

Article 18 of the Universal Declaration of Human Rights (UDHR) provides that "everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance."¹⁴

Article 18(1) of International Covenant on Civil and Political Rights (ICCPR) similarly provides that "everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching."¹⁵

¹⁰ Article 18

¹¹ Article 18(1)

¹² Articles 1(1) and 4

¹³ UN General Assembly resolution 2106 (DD) (adopted 21 December 1965) available at <<https://www.ohchr.org/en/instruments/international-convention-elimination-all-forms-racial>> accessed 7 November 2022

¹⁴ UN, 'Universal Declaration of Human Rights', General Assembly Resolution 217A (Adopted 10 December 1948), available online at <<https://www.un.org/en/about-us/universal-declaration-of-human-rights>> accessed 3 November 2022

¹⁵ UN, 'Human Rights Instruments: International Covenant on Civil and Political Rights', UN General Assembly Resolution 2200A (DDI) (Adopted 16 December 1966), available online at <<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>>

By the above provisions of both the UDHR and the ICCPR, it is clear that Freedom of thought, conscience and religion is an absolute freedom and encompasses the right to religion of one's choice, irrespective of whether or not one finds himself residing in a living environment amidst and/or is dominated by people of a different religious belief.

Regional instruments

At the regional level, many of the instruments have both been ratified and domesticated such as African Charter on Human and Peoples' Rights.¹⁶

Article 8 of the African Charter on Human and Peoples' Rights (ACHPR) provides that "freedom of conscience, the profession and free practice of religion shall be guaranteed. No one may, subject to law and order, be submitted to measures restricting the exercise of these freedoms."¹⁷

Evidently, the above provision of ACHPR does not include thought in the contemplation of rights for which freedom is to be enjoyed and nowhere else was it mentioned in the African Charter of Rights. It would appear as if the word "conscience" has been used interchangeably with the word "thought" in view of the interrelation of these words as earlier stated above under conceptual clarification of key words.

Domestic law

In addition to Nigeria's ratification of the international and regional instruments, its grundnorm, (the Constitution) makes clear provisions allowing for the right to freedom of thought, conscience and religion.

Section 38(1) of the Constitution of the Federal Republic of Nigeria, 1999 provides that "every person shall be entitled to freedom of thought, conscience and religion, including freedom to change his religion or belief, and freedom (either alone or in community with others, and in public or in private) to manifest and propagate his religion or belief in worship, teaching, practice and observance."

The right to freedom of thought, conscience and religion is therefore guaranteed under the above provision as it allows one to observe his/her religion of choice. It is important to re-

¹⁶ Article 8

¹⁷ African Commission on Human and Peoples' Rights, 'African Charter on Human and Peoples' Rights' (Banjul Charter), available online at <<https://www.achpr.org/legalinstruments/detail?id=49>> accessed 3 November 2022

emphasize that this is a basic right that is extremely important. It connotes that all persons have the right to think freely, and to entertain ideas and hold positions based on conscientious or religious or other belief. It includes the right to change your religious belief at any time and also the right to put your religion or belief into action. This idea is further strengthened by the provisions of Section 10.¹⁸

Under Section 10 of the 1999 Constitution (as amended) “the Government of the Federation or of a State shall not adopt any religion as State Religion.”

Thus, the above provision prohibits the adoption, as official state religion, of any religion by any government in Nigeria to protect the minority with different religious beliefs. This provision further allows for coexistence among persons with various religious beliefs in Nigeria. In other words, while Section 38 prohibits discrimination on religious ground, Section 10 prohibits federal and state governments from adopting any religion as a state religion.

Nigeria is governed by a federal constitution whereby the same territory is controlled by two levels of government, the Federal and State Governments. The implication of this scenario is the tendency for both levels of government, federal and state, to exert legislative powers over a particular issue, and in this particular circumstance, obviously doing so in clear violation of the provisions of Sections 38 and 10 of the 1999 Constitution, respectively. Thus, despite the clear provisions of the 1999 Constitution guaranteeing this right, it is not always enjoyed by religious minorities in the northern and central states, particularly since 12 states adopted the Sharia Penal Code successfully from 1999 and effectively rendered Islam the official state religion.¹⁹

There is an argument on the issue whether the implementation of Sharia law in Northern states of Nigeria applies to all persons resident in the Northern states irrespective of their religion. One view holds that the application is dependent on the willingness of the residents to subject themselves to the application of Sharia law in such adopting state. The reason given is that the Northern States respect the constitutional prohibition of a state religion by excluding non-Muslims who do not consent to being subjected to the application of the Islamic law.

¹⁸ Constitution of the Federal Republic of Nigeria, 1999 (as amended) otherwise known as the 1999 Constitution (as amended).

¹⁹ OHCHR, ‘Human Rights Situation in the Federal Republic of Nigeria’ (2019), available online at <https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/NGA/INT_CCPR_CSS_NGA_35125_E.pdf> accessed 4 November 2022

It is however noteworthy that during the period under review, several other human rights organizations have reported instances of violations of the right to freedom of religion in several parts of Nigeria, including in the Northern states which comes into play to debunk the view of willingness to be subjected to Sharia law. For instance, the International Society for Civil Liberties & the Rule of Law (Intersociety), a non-profit based out of Nigeria, released a report in 2021 in which they alleged that roughly 3,462 Christians have been killed already in 2021 by Fulani militants and Boko Haram throughout Nigeria. In addition, about 3000 Christians were alleged to have been abducted, while 300 churches and ten priests were alleged to have been attacked. In the latest 2022 report covering the period between January to October, 2022, it was alleged that about 4020 Christians have been slaughtered by Jihadist terrorists and 2315 have been abducted.²⁰

The chapter is of the opinion that the violations/abuse in the above reported cases occurred because of the religious beliefs of the victims.

Circumstances where the right is restricted or qualified

While the above stated provisions of the Constitution protect citizens' rights to freedom of religion or belief, in recent years, this freedom has deteriorated based on some certain conditions. The freedom of thought, conscience and religion although absolute, can be interfered with by the state where it is paramount to protect public safety, order, health, or morals or the fundamental rights and freedoms of others²¹; as well as in the interest of national security.²² For instance, during the COVID-19 pandemic, the Federal Government, in compliance with the World Health Organization (WHO) 11th March, 2020 declaration of a global pandemic and directive for social restrictions, further declared a nation-wide lockdown which effectively prevented restriction of free movement of persons to places of religious worship in order to ensure safety of public health. This has reportedly impacted on the freedom of religion or belief.²³

²⁰ The International Society for Civil Liberties and Rule of Law (Intersociety). Available online at <<https://intersociety-ng.org/4020-christians-slaughtered-by-jihadist-terrorists-in-nigeria-in-jan-oct-2022-and-2315-abducted/>> accessed 7 November 2022

²¹ (n2)

²² (n3)

²³ J C Nwaka, 'Between Religious Freedom and the Public Good: Reactions to Religious Restrictions to Prevent the Spread of Covid-19 in Nigeria', available online at <<https://kujenga-amani.ssrc.org/2020/05/20/between-religious-freedom-and-the-public-good-reactions-to-religious-restrictions-to-prevent-the-spread-of-covid-19-in-nigeria/>> ; Article 25 of Constitution of India states restriction on freedom of religion can be placed on the ground on public order, morality and health.

The regular perpetrators or violators of this right

Both state actors and non-state actors perpetrate violations/abuses to Nigerian citizen's right to freedom of religion, thought and conscience ranging from conviction for blasphemy which could even be death sentence, discrimination against religious minorities, even up to imposition of sharia law on non-Muslims.

Non-state actors such as Boko-Haram, organized bandits and criminal gangs commit violations which include abductions, summary executions of individuals as well as attacks and extra-judicial killing of individuals, maiming/murder of Christian groups in several small numbers and looting and destruction of homes, businesses and houses of worship (either churches or mosques) respectively, based on the religious affiliation. The case of the killing of Deborah on account of blasphemy by a mob consisting of her fellow students and classmates is a reference point.

While the state actors like the Nigerian Army joined by the Nigeria Police Force and other branches of the Armed Forces accounted for about 490 Christian deaths as contained in the report for 2021.²⁴

Instances of Religious Intolerance/ Non-Tolerance of Behaviours of Christians

Evidences abound to show how religious intolerance has negatively impacted on the right to freedom of thought, conscience and religion.

Boko Haram – The activities of the Boko Haram religious sect have caused wanton havoc on the freedom of religious worship in Nigeria. This group is accountable for the lost lives of several Christians and Southerners alike in the group's forceful attempt to impose a religious ideology on a constitutionally recognized secular state.²⁵

Fulani Herdsmen – The Global Terrorism Index (GTI) reports that Fulani herdsmen are believed to have killed at least 1,229 people in Nigeria in 2014.²⁶ The communal conflicts caused by Fulani herdsmen in Benue State had claimed the lives of more than 5000 victims in the first half in the year 2014.²⁷ In Taraba State, about 77 people lost their lives during the

²⁴ Intersociety, (n20)

²⁵ A Adesoji, 'The Boko Haram Uprising and Islamic Rebirthalism in Nigeria' (2010) 45(2) African Spectrum, 96

²⁶ GTI, 'Measuring and understanding the impact of terrorism' (2015) Institute for Economics and Peace, available online at <<https://www.files.ethz.ch/isn/194968/Global-terrorism-index-2015.pdf>> accessed 4 November 2022

²⁷ T U Nte, 'Fulani Herdsmen and Communal Conflicts Climate Change as precipitator' (2016) 2(1) International Journal of Political and Administrative Studies, 27

crises between some Fulani herdsmen and the indigenous people of the area where more than 40 people were being treated “for various degrees of injuries sustained because of the attacks by the Fulani herdsmen.”²⁸ Same was reported in Zamfara, Jigawa, Kaduna (123 people killed in Sanga LGA in June 2014).²⁹ The story is the same in South-East Nigeria where cases have been reported in Abia,³⁰ Enugu,³¹ Anambra,³² Imo,³³ Ebonyi, Rivers and Ogun³⁴ States. In Ekiti State, the violent activities of Fulani herdsmen has made the State Governor to sign into law a bill regulating the activities of these herdsmen in the state.³⁵

In these entire incidences, this Chapter argues that the victims of these attacks are faithfuls of the religious belief different from that of the Fulani Herdsmen and appears to be deliberate target at the victims because of their alignment to a particular religious belief different from their attackers.

Unfounded Allegations of Blasphemy – Unproven accusations of blasphemy can result in targeted violence, including extrajudicial killings by non-state actors of individual Christians.³⁶ Wherever blasphemy is alleged, it invariably results in maiming and murder of the victim against whom it is alleged. The case of Deborah is still fresh in the mind. It is noteworthy that a presidential candidate of the Peoples’ Democratic Party in the person of Alhaji Atiku Abubakar had to pull down his tweet condemning the extra judicial killing of Deborah on allegation of blasphemy when he was threatened with withdrawal of support for his political ambition by majority of Northerners who viewed his tweet.

Significant Threats – Significant threats to freedom of thought conscience and religion arises in cases of perceived provocation. For instance, the cartoon of Prophet Mohammed published in faraway Denmark, the American invasion of Afghanistan after 9/11, and a local newspaper commentary during the 2002 Miss World beauty pageant by Isioma Daniel who suggested that if the Prophet Mohammed were alive he would have admired the contestants,

²⁸ Ibid, 28

²⁹ J Shiklam, ‘Kaduna: Suspected Fulani herdsmen kill 123 in fresh attacks,’ *Thisday Newspaper* (25 June, 2014)

³⁰ C Nwopara & A Okoli, ‘Menace of Fulani Herdsmen: Tales and Woes from the East,’ *Vanguard Newspaper* (3 October, 2015)

³¹ T U Nte, (n28)

³² I F Ezeonwuka & A U Igwe, ‘Emerging challenges in Nigeria’s national security in the 21st century: The Fulani herdsmen menace’ (2016) 4(5), *Asian Journal of Multidisciplinary Studies*, 209

³³ C Nwopara & A Okoli, (n31)

³⁴ I F Ezeonwuka & A U Igwe, (n33)

³⁵ E N Iheanacho, ‘The menace of Fulani Herdsmen in Nigeria: A Threat to National Security’ (2017) 1(1) *South East Political Science Review*, 236-243, available online at <<https://journal.aphriapub.com/index.php/SEJPS/article/download/761/738/1493>>

³⁶ OHCHR, (n22)

and may even wish to have one of the beauty queens as a wife, triggered mob violence against Christians in the Northern Nigeria. Sometime in Kubwa area of Abuja, an elderly woman was attacked and beheaded by Muslims who felt that her preaching is harmful to their Islamic faithfuls. The victims in all the above cases were attacked because of their religious beliefs.

Cases where Sharia Law has not been properly implemented –

There are several aspects of Sharia which contravene international and regional human rights standards, which the Nigerian government has ratified and which both federal and state governments are obliged to uphold. Some of the current practices carried out in the name of Sharia or Islamic law violate principles of Sharia itself, as well as provisions within the Nigerian constitution which are recognized as Human Rights. First of such instance is freedom of religion. According to the sharia, a Muslim does not have the right to change his religion to another religion or to atheism. With regards to the punishment imposed under Sharia, many Muslims believe that punishment was the least important aspect of Sharia, that the first priority should be for the state to provide for the people and that it should fulfil its responsibilities in that respect – by ensuring that everyone had a reasonable standard of living, access to housing, health, and education – before turning to the system of punishment.³⁷

Discrimination against religious minorities – There are several discriminatory practices ranging from denial of access to jobs in the security sector, denial of promotions once employment is secured, inability to compete for certain political posts and difficulty in accessing or enjoying education and/or scholarships or being able to study certain courses such as law or medicine. In some extreme cases, Christian children had to adopt Muslim names in order to be able to enjoy same preferences being accorded to Muslims.³⁸

Media reports on Freedom of thought, conscience and religion

1. On 18th November, 2021 Daily Trust Newspaper at page 34 reported that the United States had removed Nigeria from the list of countries engaged in or tolerated ‘systemic, on-going and egregious violations of religious freedom’. This was

³⁷ Available online at <<https://www.hrw.org/report/2004/09/21/political-sharia/human-rights-and-islamic-law-northern-nigeria>> accessed 7 November 2022

³⁸ OHCHR, (n36)

disclosed by the US Secretary of State, Antony Blinken in a statement titled ‘Religious Freedom Designations.’

Conclusion

Religious freedom allows different faiths and beliefs to flourish. It protects the rights of all groups and individuals, including the most vulnerable, whether religious or not. The right to freedom of thought, conscience and religion is regarded as one of the foundations of a democratic society. Nigerian citizens have continued to face significant threats to their rights to freedom of religion and belief. State actors have passed harsh sentences for blasphemers, improperly implemented Sharia law, unconstitutionally detained individuals for exercising their rights to freedom of belief and expression, and discriminated against religious minorities. Non-state actors continue to attack religious institutions and abduct and educate individuals based on their religious affiliation.¹⁹ The state must also ensure that the right to freedom of thought, conscience and religion of individuals are protected within the interest of public safety and public order.

Recommendations

There is the need to continue to educate and disseminate information about the right to freedom of thought, conscience and religion in an effort to build greater awareness and ensure its protection and promotion. The Federal and state governments should continue to protect and promote the right of Nigerians to practice their religious faith and beliefs, including enhancing the dialogue between different faith-based communities to address interreligious tensions and to combat all forms of extremism.

Each religious group, while exercising their religious freedom, should refrain from attacking other religious groups. Forceful conversion of any person to any religion is unconstitutional, and should be condemned by the authorities. Voluntary conversion from one religion to another is to be free from discrimination and harassment. Government should refrain from using public fund to sponsor religious pilgrimages.

Government should establish a national agency such like Religious Enquiry Commission to be allowed to handle all issues relating to religion in the country.

¹⁹ USCIRF Country ‘update Nigeria’ pg5

CHAPTER NINE

RIGHT TO PEACEFUL ASSEMBLY AND ASSOCIATION

By

Kurugh Jeffrey Bem*

Introduction

The Right to Peaceful Assembly and Association protects the right of individuals and groups to meet for a common purpose or in order to exchange ideas and information, to express their views publicly and to hold a peaceful protest. The right extends to all gatherings for peaceful purposes, regardless of the degree of public support for the purpose of gathering. However, the right applies only to Peaceful Assemblies, not to those involving violence.¹

The Right to Freedom of Association protects the right of all persons to group together voluntarily for a common goal and to form and join an association. Examples are political parties, professional or sporting clubs, non-governmental organizations and trade unions.

There is no settled international law on whether the Right to Freedom of Assembly and Association encompasses the right not to be compelled to join an association, such as trade union or professional association. There are some situations where a public authority can restrict your Rights to Freedom of Assembly and Association. This is only the case where the authority can show that its action is lawful, necessary and proportionate in order to:

- Protect national security or public safety
- Prevent disorder or crime
- Protect health or morals, or
- Protect the rights and freedoms of other people.

Action is proportionate when it is appropriate and not more than necessary to address the issue concerned. A person may be faced with a wider range of restrictions if the person works for the armed forces, the police or the Civil Service.

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¹ Australian Government, Right to freedom of assembly and association, <https://www.ag.gov.au/rights-and-protections/human-rights-and-anti-discrimination/human-rights-scrutiny/public-sector-guidance-sheets/right-freedom-assembly-and-association> assessed 14 September, 2022.

Conceptual Clarification

The right to freedom of association is a fundamental human right proclaimed in the Universal Declaration of Human Rights, the 1999 Constitution of the Federal Republic of Nigeria as amended as well as the International Covenant on Civil and Political Rights. It is the enabling right which allows for the effective participation by everyone in economic, political and social policy. This lies at the heart of democracy and the rule of law.

The right of workers and employers to form and join organizations of their own choosing is an integral part of this right and forms part of a free and open society. Organizations like the International Labour Organization are involved in promoting freedom of association. They also advise governments on labour legislation as well as to provide education and training for trade unions and employer groups.

Legal Framework

International

The Right to Peaceful Assembly and Association is supported by various laws internationally and locally. These laws serve as a guiding principle for both the citizens and the law enforcement agencies. These laws include: Article 22 (1) of the International Covenant on Civil and Political rights, Article 11² and Article 20 of the Universal Declaration of Human Rights provide for this right. These mentioned sections form the bedrock for the protection of citizens in a gathering. However, the right can be derogated from and as such the citizenry could be stopped from the enjoyment of this right as discussed below.

Domestic law

Under section 40 of the 1999 Constitution of the Federal of Nigeria (as amended), every person is entitled to assemble freely and associate with other persons. But, section 45 permits these rights to be restricted in the interest of defence, public order, public morality or public health, or to protect the rights or freedoms of others.

Public Order Act 1979

The Public Order Act 1979 is the primary legislation regulating assemblies in Nigeria. In 2007, the Court of Appeal quashed several sections of the Act. The Court's decision, however, has not yet been reflected in legislative changes. Notification is no longer required, unless the organizers wish to receive police protection. In its 2007 judgment in the *All*

² African Charter on Human and Peoples Rights

*Nigeria People's Party V. Inspector-General of Police*³, the Court of Appeal per Justice Adekeye held that:

the Public Order Act should be promulgated to complement sections 39 and 40 of the Constitution in context and not to stifle or cripple it. A rally or placard carrying demonstration has become a form of expression of views on current issues affecting government and the governed in sovereign state. It is a trend recognized and deeply entrenched in the system of governance in civilized countries, it will not only be primitive but also retrogressive if Nigeria continues to require a pass to hold a rally. We must borrow a leaf from those who have trekked the rugged path of democracy and are now reaping the dividend of their experience.

Challenges of Right to Peaceful Assembly and Association in Nigeria

Though the right to peaceful assembly and freedom of association is guaranteed in Nigeria⁴ constitutionally, federal and state governments are fond of banning public events perceived as threats to national security, including those that could incite political, ethnic or religious tension. Right groups have criticized federal and state governments for prohibiting or dispersing protests that are critical of authorities. Also, the insistence of the police that protesters seek permission and approval before embarking on protest has also been a bottleneck which impedes the citizens' rights in carrying out lawful and peaceful protest in Nigeria. Security agencies who are saddled with the responsibility of enforcing these laws are rather seen to be the ones who are breaking such laws with impunity.

Media Reports on Right to Peaceful Assembly and Association

1. On 30th August, 2021 Daily Trust Newspaper at page 3 reported that the Youth Wing of the Christian Association of Nigeria (YOWICAN) has urged Nigerians to defend themselves, as part of the measures to deter attackers following the rising cases of insecurity in the country.
2. On the 5th of July, 2021 Daily Trust Newspaper on page 7 reported that the Governor of Borno State, Babagana Zulum on his visit to supervise the profiling of IDP Camp has told many of the IDP's who have been there for over seven years and willing to return to their communities to be relocated soon, adding that those from the

³ (2007) 18 NWLR (PT. 1066) 457 C. A.

⁴ <https://www.rightofassembly.info/country/nigeria#>

communities where peace was attained would go back to their ancestral homes. He said others would be resettled in secured places where they would have means of livelihood to stand on their own.

3. On 2nd July, 2021 The Guardian Newspaper on page 5 reported that the Niger State House of Assembly has recommended death by public hanging for anyone found guilty of banditry, kidnapping, cattle rustling or giving out information to bandits. The Speaker, House of Assembly, Bawa Wuse, applauded members of committee for their efforts geared towards bringing lasting solution to banditry in the State.
4. On 8th July, 2021 Daily Trust Newspaper on page 4 reported that Borno State Governor, Babagana Zulum said that drug abuse, prostitution and procreation are on the rise at Internally Displaced Person's Camps in the Northeast.
5. On 9th July, 2021 The Guardian Newspaper on page 9 reported that the Rivers State Police Command has been urged to end the rising cases of killing and trading of human parts in the state by redoubling its effort in crime fighting.
6. On 15th July, 2021 Daily Trust Newspaper on page 5 reported that security threats are becoming more violent which necessitated the need for effective sub regional collaboration on early warning system. The Vice President, Yemi Osinbajo said this soon after Nigeria and ECOWAS signed a Memorandum of Understanding on National Early Warning and Response Mechanism. This was disclosed in a statement by Laolu Akande, Senior Special Assistant to the President on Media and Publicity, Office of the Vice President, on Wednesday. According to the statement, the Vice President signed for Nigeria while the President of ECOWAS Commission, Jean Claude Brou, signed on behalf of the regional body.
7. On 15th July, 2021 Daily Trust Newspaper on page 5 reported that as part of the measures to mitigate security threats, the Katsina and Daura Emirate Councils have suspended public activities for Eid celebration. The Emirates called on the residents to dedicate the festive period for prayers for sustainable peace in the state.
8. On 15th July, 2021 Daily Trust Newspaper on page 7 reported that Prof Ambily Etekpe of Niger Delta University disclosed on Wednesday during the unveiling and public presentation of the book titled 'Oceanification: Environmental, Ecological and Socio-Economic Impacts' that no fewer than 105 coastal communities in Bayelsa state may face extinction in the next 30 years if nothing is done to halt rampaging effects of the encroachment of the ocean. According to him, there is an urgent need for concerted efforts and campaigns towards creating awareness for ocean encroachment

just like desertification, stressing the ocean encroachment needed national and international interest.

9. On 29th July, 2021 This Day Newspaper on page 6 reported that United States lawmakers have begun to mount pressure on President Joe Biden over concerns about Nigeria's human rights records. Already, a proposed sale of 12 attack Aircrafts and 28 Helicopter engines worth \$857 million has been put on hold.
10. On 29th July, 2021 The Guardian Newspaper on page 7 reported that the Indigenous People of Biafra (IPOB) has threatened a weekly total lockdown in the South East from August 9, 2021 should the Federal Government fail to release its leader, Nnamdi Kanu, unconditionally before August 8.
11. On 30th July, 2021 The Guardian Newspaper on page 5 reported that the National Human Rights Commission (NHRC) has advocated transitional, retributive and restorative justice as pathway for sustainable peace in communities affected by insurgency in the North East. NHRC's Executive Secretary, Tony Ojukwu, stated this during the Entry Dialogue and Stakeholders Consultative Workshop on Reconciliation, Transitional and Restorative Justice in Borno, Adamawa and Yobe States.
12. On 14th September, 2021 Daily Trust Newspaper at page 5 reported that suspected terrorists, bandits, armed robbers and other criminals were among the 240 inmates that escaped during a jailbreak at the Medium Security Custodial Centre (MSCC) in Kabba, Kogi State. Two soldiers were reportedly killed and some prison officials injured.
13. On 16th September, 2021 This Day Newspaper at page 6 reported that the United States has donated \$6.8 million for projects to combat trafficking in persons in Nigeria. A statement by the US Embassy in Nigeria on Wednesday 15th, explained that the International Narcotics and Law Enforcement Affairs (INL) donation would fund UNODC to train the Nigeria Correctional Service personnel in the North-eastern states of Borno, Gombe, and Adamawa.
14. On 22nd September, 2021 This Day Newspaper at page 1 reported that the Katsina State Governor, Aminu Bello Masari, has warned the federal government that banditry has transformed into insurgency and that the hoodlums, who orchestrated the carnage has started to relocate from the regions to other parts of the country, hence the need for drastic action to eliminate them.

15. On 23rd September, 2021 The Guardian Newspaper at page 7 reported that the Indigenous People of Biafra (IPOB) had threatened one-month total lock down in the South East, should the Federal Government fail to produce its detained leader, Nnamdi Kanu, in court on October 21 to continue his trial.
16. On 24th September, 2021 This Day Newspaper at page 42 reported that the Peoples' Democratic Party (PDP) had asked the United Nations General Assembly to censure President Muhammadu Buhari on the role of his administration in the escalation of terrorism, violation of rights, electoral malpractices, corruption, national division and economic ruin of Nigeria in the last six years.

Conclusion

The chapter has discussed the right to peaceful assembly and association. It has stated that under the law, every individual has the right to assemble freely with others. The exercise of this right shall be subject only to necessary restrictions provided for by the law, in particular, in the interest of national security, the safety, health, ethics and rights and freedoms of others. The chapter further discussed the legal framework for the protection of this right at International and domestic laws. Finally, the Police who are enforcers of the law in regard to the exercise of the right to peaceful assembly and association should also be seen as respecters of the law which they are the enforcers. They should be civil in their engagement with the public to avoid unnecessary conflicts between them and the public whom they are expected to protect.

CHAPTER TEN

RIGHT TO OWN AND ACQUIRE PROPERTY

By
Uzoamaka L. Amadi*

Introduction

The right to property is the socio-political principle that human beings may not be prohibited or prevented by anyone from acquiring, holding and trading (with willing parties) valued items not already owned by others. Such a right is inalienable and every person has the right to acquire and own property. This right enjoys legal protection in a just and civilized society.¹ The Universal Declaration of Human Rights makes provision for the right to own and acquire property and Nigeria is a signatory to this Declaration.

However, the right to own immovable property like every other right is not absolute but subject to certain qualifications. The law of compulsory acquisition of land in Nigeria is rooted in the country's Constitution. It is enshrined in the Nigerian Constitution that every Nigerian has the right to own private property and that such property shall not be acquired compulsorily, except in the manner and for the purposes prescribed by a law that requires both the payment of prompt compensation and compliance with the rule of law on access to the court.

This Chapter shall attempt an examination of the rights with conceptual clarification of terms, the legal framework regulating the right, any qualification to the enjoyment of such right and complaints received in relation to the violation. It ends with conclusion and recommendations. The protection of right to property is paramount to the guarantee of the optimal coexistence between the government, the state and the people in ensuring the pathway towards the socio-economic and political development of any polity.

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¹ A Otubu, 'Fundamental Right to Property and Right to Housing in Nigeria: A Discourse' (2011) 7(3) AUDJ, available online at <<https://ssrn.com/abstract=1909048>> or <<http://dx.doi.org/10.2139/ssrn.1909048>> accessed 10 November 2022

Conceptual Clarification

Human rights

According to the United Nations, 'human rights are rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status.'² Human rights are those rights that cannot be alienated, and they are not a product of law but are rights instilled from the moment a person is born and have their origin in the natural order of life and good conscience.

What is property?

The meaning and definition of property is dependent on the context in which it is applied. Thus, where it seeks to describe the legal relationship between a person and an object or land for example, a car or a piece of land, the term property refers to the legal relationship involving three persons: the state, the person the state has concluded is the holder of a specified form of property, any other person whom the state has concluded does not hold the specified form of property. This definition portrays property as an interest separate from the thing itself.³ Interest in property can be by ownership or by possession wherein ownership is usually conceived as the highest form of "property" or relationship with the thing or land being considered among other types, to wit: possession, security interest, leasehold interest or a life estate (freehold interest in land for the life of a person). However, despite the difference between ownership and possession, it is habitually merged in one person where both ownership and possession interest can be founded in the same person.⁴

Right to property

For this chapter, where reference is made to the right to property, it refers to physical property rights and is considered as the definite and inalienable right to control and use property. This right may be exercised by an individual (natural or artificial), a community or by a group of individuals. The right to property also includes the right for the owner to delegate the right to use the

² I Bantekas and L Oette, *International Human Rights Law and Practice* (2nd edn, Cambridge University Press 2016) available at <http://assets.cambridge.org/97811071/25049/frontmatter/9781107125049_frontmatter.pdf> accessed 10 November 2022
<https://www.researchgate.net/publication/342946672_UNDERSTANDING_HUMAN_RIGHTS#:~:text=According%20to%20the%20United%20Nations,%2C%20or%20any%20other%20status.%E2%80%9D> accessed 10 November 2022.

³ M Weir, 'Concepts of Property' (2001) 7(1) Art. 6, *The National Legal Eagle*, available online at <<https://epublications.bond.edu.au/nle/6017/iss1/6>> accessed 10 November 2022

⁴ *ibid*

resources, the right to sell, rent or otherwise alienate interest in the property. It includes the rules that determine who gets what and who must compensate whom if damages occur.

Legal Framework

International

The United Nations Universal Declaration of Human Rights (UDHR) is singularly the most important reference point for discussions on human rights and it adequately made provisions addressing the right to property. Article 17 of the UDHR provides that:

“(1) Everyone has the right to own property alone as well as in association with others.

(2) No one shall be arbitrarily deprived of his property.”⁵ It is said that the above provision was enacted to guarantee the right to property in response to the atrocities of the Holocaust when property belonging to the Jews were confiscated to enrich Nazi officials⁶

Regional

The African Charter on Human and Peoples' Rights (ACHPR), under Article 14, provides that “the right to property shall be guaranteed. It may only be encroached upon in the interest of public need or in the general interest of the community and in accordance with the provisions of appropriate laws.”⁷ This provisions of ACHPR clearly protect the right to property.

Domestic

The right to own and acquire property under Nigerian laws is guaranteed by Sections 43 and 44 of the 1999 Constitution of the Federal Republic of Nigeria as amended. They provide protection for both movable and immovable property.

Section 43 provides:

“Subject to the provisions of this Constitution, every citizen of Nigeria shall have the right to acquire and own immovable property anywhere in Nigeria.”

Section 44, on the other hand, provides:

⁵ United Nations Universal Declaration of Human Rights, available online at <<https://www.un.org>> accessed 9 November 2022.

⁶ UN, ‘Press Releases-Universal Declaration of Human Rights at 70: 30 Articles on 30 Articles- Article 17’ (26 November, 2018), available online at <<https://www.ohchr.org/en/press-releases/2018/11/universal-declaration-human-rights-70-30-articles-30-articles-article-17>> accessed 10 November 2022

⁷ African Charter on Human and Peoples Rights, available online at <<https://www.achpr.org>> accessed 5 November 2022

“No movable property or any interest in an immovable property shall be taken possession of compulsorily and no right over or interest in any such property shall be acquired compulsorily in any part of Nigeria except in the manner and for the purposes prescribed by a law that, among other things-

- (a) requires the prompt payment of compensation therefor; and
 - (b) gives to any person claiming such compensation a right of access for the determination of his interest in the property and the amount of compensation to a court of law or tribunal or body having jurisdiction in that part of Nigeria.
- (2) Nothing in subsection (1) of this section shall be construed as affecting any general law-
- (a) for the imposition or enforcement of any tax, rate or duty;
 - (b) for the imposition of penalties or forfeiture for breach of any law, whether under civil process or after conviction for an offence;
 - (c) relating to leases, tenancies, mortgages, charges, bills of sale or any other rights or obligations arising out of contracts.
 - (d) relating to the besting and administration of property of persons adjudged or otherwise declared bankrupt or insolvent, of persons of unsound mind or deceased persons, and of corporate or unincorporated bodies in the course of being wound-up;
 - (e) relating to the execution of judgements or orders of court;
 - (f) prohibiting for the taking of possession of property that is in a dangerous state or is injurious to the health of human beings, plants or animals;
 - (g) relating to enemy property;
 - (h) relating to trusts and trustees; (i) relating to limitation of actions;
 - (j) relating to property vested in bodies corporate directly established by any law in force in Nigeria;
 - (k) relating to the temporary taking of possession of property for the purpose of any examination, investigation or enquiry;
 - (l) prohibiting for the carrying out of work on land for the purpose of soil-conservation; or
 - (m) subject to prompt payment of compensation for damage to buildings, economic trees or crops, prohibiting for any authority or person to enter, survey or dig any land, or to lay, install or erect poles, cables, wires, pipes, or other conductors or structures on any land, in order to provide or maintain the supply or distribution of energy, fuel, water, sewage, telecommunication services or other public facilities or public utilities.

- (3) Notwithstanding the foregoing provisions of this section, the entire property in and control of all minerals, mineral oils and natural gas in under or upon any land in Nigeria or in, under or upon the territorial waters and the Exclusive Economic Zone of Nigeria shall vest in the Government of the Federation and shall be managed in such manner as may be prescribed by the National Assembly.”

By the above provisions of sections 43 and 44 therefore, the right to movable and immovable property is guaranteed. However, section 43 applies only to every citizen of Nigeria as regards immovable property alone, section 44 appears to guarantee the right for citizens and non-citizens alike, in relation to both movable and immovable property. This immovable property includes fixed property like lands, factories etc.

Is there any qualification to the enjoyment of the right to own and acquire property in Nigeria?

The right to own and acquire property is not absolute. This is because there are certain exceptions and qualification to the enjoyment of this right under Nigerian laws. They are as follows:

(i) Age limitation –

By the provisions of the Lagos State Property Law, a minor may not be allowed to acquire land without an authorized adult or a guardian *ad litem*.⁸

(ii) Paragraphs (a) and (b) of Section 44(1) –

The implication of the above paragraphs is that any person holding an interest in land in Lagos State does not do so absolutely with the provision for compensation under paragraph (a) and for access to court to determine the legality of any compulsory acquisition of their interest under paragraph (b), as property can only be forcibly acquired from anyone under the circumstances provided by the law.

(iii) Subsection (2) of Section 44 –

The subsection suggests that the right of anyone to movable or immovable property may be compulsorily acquired or taken possession of in cases listed under paragraphs (a) to (m) of section 44(2). Essentially, this relates to cases of non-payment of tax or ground rent, breach of contract leading to forfeiture, mortgages, the execution of the judgment of a court, and so on.⁹ However, Section 44(3) states that minerals and other related assets upon any land or the territorial waters and the Exclusive Economic Zone of Nigeria shall vest in the Government

⁸ See the provisions of the Lagos State Property Laws.

⁹ See Section 44(2) (a) to (m)

of the Federation and shall be managed in such as may be prescribed by the National Assembly.

(iv) The Land Use Act of 1978¹⁰ –

The Land Use Act provides that all lands comprised in the territory of each state in Nigeria are vested in the Governor of that State and such land shall be held in trust and administered for the use and common benefit of all Nigerians¹¹, and the Governor may revoke a right of occupancy for overriding public interest.¹² The implication of this Act is that land is regulated under state laws. It enhances the principle of leasehold by which land in each state is vested in the Governor of a state who holds it in trust for the benefit of Nigerians within the state. In other words, ownership of land is subject to the grant of Governor's consent to acquire interest in it, which is so acquired for only a period of time, e.g. 99 years.

Some of the Complaints Received by the Commission on Right to Acquire and Own Property are as Follows:

NHRC/TSO/C/2021/295

The Commission received a complaint dated 21st June, 2021 from Y who lives at Mechanic Billage of Mayo-dasa, Jalingo, Taraba State. Y alleged that he bought a piece of land at the cost of N500, 000.00 from a pharmacist in 2014 and he started developing it in 2019. Y further alleged that one Honourable Member claimed ownership of the plot of land with evidence. Y further stated that the Honourable Member gave him the sum of N100,000.00 as disturbance and compensation fee and never paid off the remaining balance.

ESO/2021/132

The Commission received a complaint dated 4th May, 2021 from D alleging that Y, her Brother-in-law, denied her and her children their rights to inherit her late husband's property. She further alleged that Y threatened to kill her and her children if they step into the family land to cultivate it.

¹⁰ Cap L5, Laws of the Federation of Nigeria, 2004

¹¹ (n11), Section 1

¹² (n11), Section 28; Resolution Law Firm, 'Overview of Compulsory Acquisition of land in Nigeria' [2021] Article available online at <<https://www.mondaq.com>> accessed 11 November 2022.

C/2021/08/RSO

The Commission received a complaint from D dated 19th January, 2021 alleging disinheritance from her late husband's property by his family members.

C/2021/ 6697/PSO

The Commission received a complaint dated 7th May, 2021 from D who resides at Jos, Plateau State. D is a widow whose husband died in 2020 and she alleged that after her husband's death, the respondent has been selling off the family land that belonged to her late husband and his late brothers without her knowledge or consent.

NHRC/EBO/137

The Commission received a complaint dated 12th April, 2021 from D who alleged that Y, the LGA Chairman somewhere in Ebonyi State, is instigating destruction of lives and properties, conspiracy and promoting communal war in the local government.

C/2021/116/2021

The Commission received a complaint dated 26th February, 2021 from DY alleging that their communal land was acquired by the Akwa Ibom State Government for building of Deep-Sea Port but they were not paid compensation.

C/BAU/2021/005

The Commission received a complaint dated 6th January, 2021 from Y of Gadau LGA of Bauchi State alleging denial of right to own farmland against a traditional ruler.

C/BAU/2021/258-267

The Commission received a complaint dated 4th May, 2021 from Y of Toro LGA Bauchi State alleging that he and his siblings were denied right to their landed property by their traditional ruler.

C/BAU/2021/268

The Commission received a complaint dated 5th May, 2021 from Y of Balewa LGA of Bauchi State alleging that he was denied right to his property by one YY.

C/BAU/2021/416

The Commission received a complaint dated 5th July, 2021 from Y alleging denial of right to compensation for property acquired by the Bauchi State Government.

C/BAU/2021/431-434

The Commission received a complaint dated 15th July, 2021 from Y of Gadau LGA of Bauchi State against the ward head of Zubaki alleging denial of his right to own property.

ANS/SEZ/2021/005

The Commission received a complaint from D dated 6th January, 2021. D alleged that she inherited shops from her late husband at Enugwu-Ukwu, Njikoka L.G.A of Anambra State and his nephew, who is a commercial bus driver, and a member of the Igwe's Council, are threatening to usurp it from her.

ANS/SEZ/2021/052

The Commission received a complaint dated 9th March, 2021 from D alleging that the care-taker of her apartment broke into her room at Oko, Anambra State on 5th March, 2021 and took away her properties without her consent for delay in rent payment. D stated that her inability to pay was occasioned by the fact that she was involved in an auto crash and was hospitalized for a long time, which she informed the care-taker about. D further stated that she has tried to retrieve her properties but was barred from taking them by the care-taker.

ANS/SEZ/2021/059

The Commission received complaint dated 23rd March, 2021 from Y alleging that his uncle is threatening his life over the property that rightfully accrued to his father as the first son and which he subsequently passed on to him.

ANS/SEZ/2021/131

The Commission received a complaint dated 7th July, 2021 from D alleging that her youngest son, without her knowledge, used her deceased husband's plot of land to borrow money from his uncle to use for processing his travelling papers. D further stated that the uncle has now asserted that her son sold the land to him.

NHRC/NGSO/2021/055

The Commission received a complaint dated 29th April, 2021 from Y on alleged forceful eviction by State Urban Development Board, Niger State. Y who resides in Sauka, Niger State alleged that on 16th March 2021, a bulldozer with the officials of State Urban Development Board and armed policemen arrived at his residence in Minna, Niger State and without wasting time or saying a word to him, embarked on demolishing shops built adjacent

to his house and at the end of the exercise, 27 shops including his personal house were demolished without a cogent reason.

NHRC/NGSO/2021/033

The Commission received a complaint dated 5th March, 2021 from Y on alleged denial of access to justice and denial of right to livelihood against the respondent. Y alleged that on 26th May, 2020, the respondent came to his garage in Minna, Niger State and seized his bus which is his only source of income, because he borrowed some money from him and failed to pay back within time. Y further claimed that the vehicle in question was also bought on hire purchase for commercial purpose, and payment for same has not been fully offset.

C/2021/59/ESCR/AKR

The Commission received a complaint dated 5th May, 2021 from D of Ijoka, Akure, Ondo State alleging denial of access to entitlements by DY. D stated that she requested for the supply of a prepaid meter for which she paid ₦25, 000 (Twenty-Five Thousand naira only) on request. D alleged that she had repeatedly contacted the management of DY since 2012 for the delivery of the meter she paid for, but all efforts proved abortive as nothing has been done to that effect.

NHRC/2021/45/CAL

The Commission received a complaint on 22nd June, 2021 from D alleging that her uncle Y took over her property which is the inheritance given to her mother when the mother died.

C/2021/IMS/134/W&C

The Commission received a complaint dated 28th June, 2021 from DD who alleged that D, a widow had the house which she inherited from her husband repossessed and demolished by her brother in-law on 20th June, 2021 at Orsu L.G.A, Imo State.

C/2021/IMS/69/ESCR

The Commission received a complaint from Y dated 14th April, 2021. Y alleged that on 17th January, 2019, YY destroyed his plantation at Nkwerre L.G.A, Imo State.

KTSO/C/2021/014

The Commission received a complaint dated 2nd February, 2021 from D who alleged that elders and relatives of her children cheated her children by selling the only house that their father left for them after his death.

KTSO/C/2021/064

The Commission received a complaint dated 1st July, 2021 from D alleging that the local vigilante group in Dutsinma Local Government Area of Katsina State invaded their house and destroyed many properties without any reasonable ground to justify their action.

GSO/C/2021/063

The Commission received a complaint dated 9th April, 2021 from Y and his brother alleging denial of payment of inherited property sold to their sister. Y alleged that the house inherited by him and his brother was sold to their sister and after sixteen years of selling the house to her, she has failed or refused to pay for the house or return the property to them.

GSO/C/2021/070

The Commission received a complaint dated 14th April, 2021 from Y and his brother alleging denial of inheritance by their uncle. Y and his brother further alleged that the property is supposed to be used to take care of them but was compulsorily acquired by their uncle thereby depriving them of their entitlement.

GSO/C/2021/087

The Commission received a complaint dated 27th April, 2021 from Y alleging that his brother denied him of his inheritance. Y stated that the respondent sold his uncompleted house without his consent and he did not give him the money thereby depriving him of his own share of the family inheritance.

GSO/C/2021/094

The Commission received a complaint dated 29th April, 2021 from Y alleging that his brother denied him his own share of the inheritance left by his deceased father who died in 2017.

GSO/C/2021/207

The Commission received a complaint dated 2nd August, 2021 from Y alleging that the respondent confiscated his property without due process.

GSO/C/2021/245

The Commission received a complaint dated 25th August, 2021 from D alleging the unlawful sale of her land by her husband without her consent.

GSO/C/2021/036

The Commission received a complaint dated 24th February, 2021 from D alleging inhuman treatment, destruction of property and denial of inheritance. D further alleged that she was denied her rightful inheritance by the respondent and witnessed the destruction of her office equipment and trucks by the respondent.

GSO/C/2021/013

The Commission received a complaint dated 12th January, 2021 from Y alleging the sale of his inherited land situated at Shamyam, Burak of Shangom LGA, of Gombe State without his knowledge by the respondent who is a member of his family.

GSO/C/2021/017

The Commission received a complaint dated 20th January, 2021 from D stating that her late husband left a property which was to be sold and the proceeds shared amongst his children. D claimed that the respondent, who is one of the husband's family members, sold the property and gave her children the sum of N15, 000.00 instead of N82, 000.00.

GSO/C/2021/158

The Commission received a complaint dated 16th June, 2021 from D alleging illegal possession of her farm land. D further alleged that the farm land which the family has been farming on for the past thirty years was given to her by her deceased father and on 14th June, 2021, she leased the farm land to Y for an agreed specific period of time. D stated that Y has now refused to return the farm land to her.

GSO/C/2021/012

The Commission received a complaint dated 12th January, 2021 from Y against his brother over his refusal to return his property. Y claimed that his brother sold the house and a piece of land belonging to him and has refused to return both as promised.

GSO/C/2021/043

The Commission received a complaint dated 9th March, 2021 from DY on behalf of Bambam Community at NIPOST Balanga Local Government Area of Gombe State. Y alleged that the

respondent trespassed on the community land without their knowledge and after several attempts to solve the issue, he started claiming ownership.

GSO/C/2021/041

The Commission received a complaint dated 2nd March, 2022 from DY alleging the confiscation of a piece of land belonging to Y. DY further claimed that the land was given to Y by the Local Government in 2003 but the respondent has started erecting a building on the piece of land.

JG/C/2021/040

The Commission received a complaint dated 16th June 2021 from Y of Gurdaga Billage Dutse, Jigawa State, alleging that his farmland located at Gurdaga Billage, Dutse in Jigawa state was compulsory acquired by the Jigawa State Government on 26th May, 2014 for the construction of an airport, without adequate compensation. Y complained that the Jigawa State Government has failed to compensate him either by replacing the land or refunding him.

JG/C/2021/045

The Commission received a complaint dated 5th July, 2021 from Y of Katin Babule, Ringim Local Government Area of Jigawa State, alleging that his inherited land located at Kafin Babule Billage Ringim in Jigawa state was seized by the respondent of same location, on 16th November, 2016.

JG/C/2021/008

The Commission received a complaint, dated 9th February, 2022 from Y of Yan Kaba, Kano State, stating that his brother's inherited a piece of land located at Garki Local Government Area of Jigawa State on 5th July 2016. Y alleged that the land was confiscated by the respondent who lives at Daki Daka billage in Garki Local Government Area of Jigawa State.

JG/C/2021/096

The Commission received a complaint dated 11th August, 2021 from Y of Gaida Billage, Kumbotso, Kano State, against Y of Gaida Fulani Billage of Kumbotso Local Government Area of Kano State alleging that on 14th February, 2021 they were unjustifiably denied their right to own a landed property which they bought from someone at the same billage.

JG /2021/023

The Commission received a complaint dated 15th March 2021, from Y and others of Gagarawa Local Government Area of Jigawa state alleging that the respondent of the same address on 17th February, 2021 seized their farmland and all efforts made to have access to their property failed.

JG/C/2021/044

The Commission received a complaint dated 11th August 2021, from Y of FulaninTurawa Billage in SuleTankarkar Local Government Area of Jigawa State alleging seizure of his farmland unjustly on 10th January, 2019 which is located at SuleTankarkar Local Government Area of Jigawa State.

NHRC/ABS/2021/115

The Commission received a complaint dated 11th August, 2021 from Y alleging that the respondent of St. Thomas Anglican Church Abonipupe Ubakala, Umuahia South, Abia State illegally encroached on his land on June 13th, 2015 without his consent. Y further alleged that all efforts to resolve the issue was met with harassment and intimidation.

NHRC/ABS/2021/096

The Commission received a complaint dated 30th June, 2021 from Y alleging that his tricycle (Keke) was unlawfully seized by the respondent on 28th June, 2021 at Lagos Street, Umuahia, Abia State over his refusal to pay the agreed default fee of Twenty-Nine Thousand Naira (N29,000.00) only.

NHRC/ABS/2021/001

The Commission received a complaint dated 8th January, 2021 from D alleging that her brothers and extended family banished her from her father's house and her billage at Afugiri, Ohuhu, Umuahia on 3rd January 2021.

NHRC/ABS/2021/127

The Commission received a complaint dated 25th August, 2021 from D alleging that her late husband's eldest brother and his children invaded her house, destroyed and made away with her properties.

NHRC/ABS/2021/070

The Commission received a complaint dated 4th May, 2021 from D over the alleged destruction of her properties, harassment and intimidation by the respondent. D further

alleged that she was beaten by the respondent and his children in January 2021 at her residence in Umuogada, Akpuruta Ndi OlumbeIsialaNgwa South, and Local Government Area of Abia State.

NHRC/ABS/2021/004

The Commission received a complaint from D dated 19th January, 2021 alleging that her husband had been threatening her life and that of her two grown sons who are all living with her in a block of flats comprising four flats with each son occupying a flat. D also alleged that the husband purportedly sold the said house that she built with him behind her back and moved into another building with his second wife. D further claimed that they were served a ‘notice to quit’ on 21st December 2021 by the purported buyer with the Power of Attorney evidencing the purchase agreement.

NHRC/ABS/2021/011

The Commission received a complaint dated 3rd February, 2021 from Y alleging that the respondent destroyed his house that was being roofed on 4th October, 2020 at Abo Ndi Oworie Umueze-Amamba Uzuakoli in Bende Local Government Area of Abia State. Y further alleged that the land was allocated to him by the community leaders and every effort made for the respondent to re-build his house proved abortive.

C/2021/IMS/136/ESCR

The Commission received a complaint from D dated 29th July, 2021. D alleged that her late husband’s siblings locked up her room at Owerri North Local Government Area, Imo State, thereby infringing on her right to shelter. D also alleged that a structure is being erected at her late husband’s property without her consent.

JG/C/2021/027

The Commission received a complaint dated 6th April 2021 from D of Kiyawa Local Government Area of Jigawa State, alleging that the respondent of the same address, who is a brother to her late husband wants to deprive her of inheriting her late husband’s properties, who died on 10th February 2021.

NHRC/ABS/2021/049

The Commission received a complaint dated 8th April, 2021 from Y alleging illegal occupying of landed properties duly allocated to him by the Abia State Government with evidence of Certificate of Occupancy at Phase 1 Umuahia, Abia State. Y further alleged that

when he visited the land on 16th December 2018, he found out that the respondent has fenced the land and construction work is on-going. Y also claimed that when he visited the Ministry of Lands, he was told that the land was in dispute with the natives and nothing could be done until the dispute was resolved.

NHRC/ABS/2021/073

The Commission received a complaint dated 6th May, 2021 from Y who is an indigene of Ubakala, Umuahia South Local Government Area of Abia State. Y alleged that in March 2021, his step brother started plotting to forcefully eject him and his family from his inherited property and all efforts to resolve the problem amicably was met with intimidation and harassment from his step brother.

NHRC/ABS/2021/075

The Commission received a complaint dated 6th May, 2021 from D alleging that the children of the second wife to her late husband were fighting her son and refusing to share their late father's properties with him located at Obim, Isiukwuato in Abia State. D further alleged that the co-wife has been collecting rent from thirty-six (36) rooms left behind by her late husband from April 2019, and all efforts to ensure that the properties are shared amongst all the male children of her late husband proved abortive.

NHRC/ABS/2021/054

The Commission received a complaint from Y dated 16th April 2021 alleging that his four-room apartment located at Ohobo Afara Ibeku Umuahia, Abia State where he resides, and which served as an inheritance from his late father, has been under continuous contention between him and his uncle. Y further alleged that his uncle has issued him a one week quit notice on 31st March 2021 to leave the property.

NHRC/ABS/2021/087

The Commission received a complaint dated 24th April, 2021 from D alleging the sale and illegal possession of her step brothers inherited landed properties by Y. D also claimed that after the death of her mother, Y has constantly threatened her life at her residence in Nkata Alike - Ohuhu-Umuahia North, Local Government Area of Abia State.

NHRC/ABS/2021/114

The Commission received a complaint dated 2nd August, 2021 from D alleging illegal demolition of her house, forceful seizure of her land and constant harassment and

intimidation by the respondent who resides in Ubakala - Umuahia South Local Government Area, of Abia State.

NHRC/ABS/2021/104

The Commission received a complaint from D dated 9th July, 2021 alleging that since 2012, following the death of her father, her relatives have constantly threatened, intimidated and laid false claims against her because of her late father's portion of land at UmuikwereUmuogo, Ubakala, Umuahia South Local Government Area of Abia State.

NHRC/ABS/2021/046

The Commission received a complaint dated 25th January, 2021 from D, who is seventy-four (74) years old and a divorcee. D alleged that she relocated to the house built by her biological mother at Asaga Ohafia, in Abia State after the demise of her husband. D also claimed that her younger brother refused to allow her have a moment's peace as he conspired and had her thrown out of her mother's house on 20th November, 2020, which is her rightful inheritance as the first daughter of her mother by the Native Law & Custom of Asaga Ohafia in Abia State. D further alleged that the respondent has not allowed her access into the house till date.

C/BAU/2021/005

The Commission received a complaint dated 6th January, 2021 from Y of Itas Gadau LGA of Bauchi State alleging denial of right to own farmland against a traditional ruler.

C/BAU/2021/160

The Commission received a complaint dated 17th March, 2021 from Y of Fadama Mada Housing Estate, Bauchi State. Y alleged that on 22nd February, 2021, he had an accident involving his car and that of Y, who is with the Nigerian Army Armour School Bauchi. Y further alleged that the accident took place along Jos Road, Bauchi and Y intimidated him and took possession of his car.

C/BAU/2021/175-209

The Commission received a complaint dated 30th March, 2021 from Y of Kafata Community, Itas Gadau LGA of Bauchi State on behalf of himself and 34 others alleging that their district head, Y denied them right to own property (land).

C/BAU/2021/338

The Commission received a complaint dated 24th May, 2021 from Y of RafinTambari, Bauchi State alleging that YY forcefully took over a plot of land that he cultivated at RafinTambari.

C/BAU/2021/392

The Commission received a complaint dated 23rd June, 2021 from Y of Liman Katagum, Bauchi State alleging that his uncle denied him the right to inherit his late father's land situated at Kofi, GodiyaBogoro LGA of Bauchi State.

C/BAU/2021/416

The Commission received a complaint dated 5th July, 2021 from Y alleging that the Bauchi State Government acquired his property and did not pay him compensation.

Media reports on right to own and acquire property:

1. On 9th August, 2021 Daily Trust Newspaper at page 12 reported that the Niger State Emergency Management Agency (NSEMA) has disclosed that over 500 communities in the state are affected by floods annually. This statement was made by the Director General of NSEMA, Alhaji Ibrahim Inga at a meeting on flood preparedness in Minna.
2. On 12th August 2021, This Day Newspaper at page 44 reported that the Federal Capital Development Administration (FCDA) of the FCTA demolished about 2,000 illegal structures impeding the flow of traffic at Mpape, Abuja. The removal of the structures followed the expiration of three-week quit notice issued by the FCT Ministerial Committee on Sanitation to the illegal squatters of the slums.
3. On 31st August, 2021 Daily Trust Newspaper at page 23 reported that passengers were left stranded in the early hours of Monday in Minna, as tricycle riders, popularly known as Keke Napep, began one-day warning strike over alleged extortion by men of the Police, Federal Road Safety Corps, BIO and revenue officials from Chanchaga and Bosso Local Government Areas.
4. On 2nd September 2021, Daily Trust Newspaper on page 23 reported that traders operating at the Tipper Garage, 3rd Avenue, Gwarimpa, Abuja have lamented the demolition of their properties amounting to millions of naira.
5. On 13th September, 2021 Daily Trust Newspaper at page 5 reported that investigations revealed that officers in charge of tracking stolen devices collect between N50, 000 to N100, 000 from members of public, depending on the individual's bargaining power.

Report had it that tracking equipment being used by officers to locate bandits, terrorist and kidnappers had remained inactive for the past seven months.

6. On 13th September, 2021 Daily Trust Newspaper at page 15 reported that checkpoints in Nigeria are points of delay and extortion. It was reported that some officers do not care to check what one carries. They only delay journeys and financially extort commuters.
7. On 23rd September, 2021 This Day Newspaper at page 42 reported that almost a year following the nationwide mayhem unleashed by the #EndSars protests, the Senate Joint Committee on National Security & Intelligence, Defence, Police Affairs & Judiciary expressed shock and sadness at the level of destruction of both public and private properties in the Cross River state.

Conclusion/ Recommendation

In conclusion, every citizen has the right to own movable and immovable property as well as the right to dispose of them. However, this right to acquire and hold land is subject to the power given to the Governor of each state by the Land Use Act as well as the right given under the Constitution. In consequence, the government can only acquire individuals' lands compulsorily upon the payment of compensations. Where any individual finds the acquisition of his/her land to be unlawful, such an individual can successfully challenge the acquisition in the court of law. Ultimately, it is very important and paramount to continue to guarantee the protection of this right in order to aid the optimal coexistence between the government, the state and the people in ensuring the pathway towards the socio-economic and political development of any polity.

CHAPTER ELEVEN RIGHT TO HEALTH

By

Fatima Abubakar Shamaki*

Introduction

Human rights by their very nature encompass every aspect of the human experience, be these experiences political, social, economic or even cultural. It is on this premise that the human rights community recognized the right to health as a fundamental human right. The right to health is vital to all aspects of a person's life and wellbeing and is crucial for realization of all other human rights.

The right to health has been very succinctly described by the World Health Organization to mean "The enjoyment of the highest attainable standard of health... without distinction of race, religion, political belief, economic or social condition"¹. A nation's economic and socio-political strength is directly related to the health of its citizens and good health is essential to human existence, consequently, ill health is an obstruction to human productivity.

Generally, there is no justiciable right to health under the Nigerian Constitution as it is provided for in form of a directive principle.² The right to health care in Nigeria is located under Chapter II of the 1999 Constitution of the Federal Republic of Nigeria. It is provided as one of the social objectives of government. It is neither a pragmatic nor a justiciable right.

This Chapter argues that the absence of an exclusive constitutional stamp on the right to health makes its realization difficult. This is because the absence of same connotes a lack of firm direction on the right and leaves the right without the much-needed base for enforcement.

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¹ World Health Organisation Constitution available at <[Constitution of the World Health Organization \(who.int\)](http://www.who.int)> accessed 25 October 2022.

² P Oamen, 'Realisation of the Right to Health in Nigeria: The Prospects of a Dialogic Approach' [2020] SSRN Electronic Journal.

Conceptual Clarification/Definition

Health

Health has been defined as the ‘condition of the body and the degree to which it is free from illness, or the state of being well’.³

The preamble to the Constitution of the World Health Organization (WHO) defines ‘health’ as ‘a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity’⁴

Right to health in Nigeria

Nigeria recognizes the right to health and is committed to its protection. This is evidenced by the assumption of obligations existing under international treaties and domestic legislation which mandate particular conduct in the area and respect of the health of persons within its territory.

The right to health is a fundamental human right which encompasses the right to access healthcare and underlying determinants of health. Suffice it to say that the right to health is an all-inclusive right, extending not only to timely and appropriate health care, but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, healthy occupational and environmental conditions and access to health-related education and information, including on sexual and reproductive health.⁵

Health in Nigeria

In the mid-1980s the Nigerian health sector experienced vigorous growth with sufficient and adequate support to the sector by government, assisted by multilateral and bilateral partners⁶. This translated to availability of free or subsidized access to health care in public clinics and hospitals especially in the urban areas. Unfortunately, by 1985, this positive development failed due to swift economic decline and the taking over of power by the military.⁷

The present state of health in Nigeria is mired with its history of political governance with the last phase of military dictatorship (1983 – 1998) credited with being the era that radically

³ <https://dictionary.cambridge.org/>

⁴ The Constitution of the World Health Organization
https://www.who.int/governance/eb/who_constitution_en.pdf

⁵ The Committee on Economic, Social and Cultural Rights interpretation of article 12 of the ESCR Covenant (General Comments No.2014) <OHCHR | [Committee on Economic, Social and Cultural Rights](#)>

⁶ O Nnamuchi, 'The Right to Health in Nigeria' [2010] SSRN Electronic Journal.

⁷ *ibid*

affected the socio-political and economic structure of the country, including the health sector due to widespread corruption and mismanagement that became common place during that era⁸. This fact is further emphasized in the United Nations report which implicated the military as being indifferent to the deficiencies and rot in the Nigerian health system.⁹

However, the advent of the democratically- elected administration has introduced many innovative policies aimed at rebranding and restructuring the health system at tandem with the National Health Policy and the health-related benchmarks of the Sustainable Development Goals (SDG). Though far from perfect, the efforts put in place show a radical departure from the deficiencies and errors of the past with regard to openness and greater public participation.¹⁰

Legal Framework of Right to Health in Nigeria

Under international and regional laws to which Nigeria is a signatory, the right to health is considered a fundamental right. However, the right is not included among the fundamental human rights in the Nigerian constitution. It is located under Chapter II that deals with the Fundamental Objectives and Directive Principles of State Policy which is generally not justiciable.¹¹

The right to health is recognised by a number of international and regional treaties. These include the International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention on the Elimination of all Forms of Discrimination (CERD), the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW). Further to the above, the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to which Nigeria is also a party also have provisions that relate to health.¹² Regional treaties includes the African Charter on Human and Peoples Right. Nigeria is also party to a number of conventions of the International Labour Organisation that provides laws to protect the right to health of workers¹³

⁸ A Okonkwo, 'Abuja Nigeria Set to Launch Health Insurance Scheme' (2001) 358 The Lancet.

⁹ O Nnamuchi (n 6)

¹⁰ *ibid*

¹¹ Sec 6(6) (c) of the 1999 Constitution of Federal Republic of Nigeria

¹² (n 6)

¹³ *ibid*

International framework

There is no one stop legislative package for right to life in Nigeria just like in many countries, therefore, a cursory look at the international human rights instruments including the ICESCR and the works of the Committee on Economic, Social and Cultural Rights (CESCR) is necessary to understanding right to health in the country.¹⁴

Article 12(1) of ICESCR states that ‘the States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health’. Four (4) standards were provided for measuring the existence of right to health in a country in the general comment 14 of CESCR. These are availability, accessibility, acceptability and quality (AAAK)¹⁵. Availability assesses the presence of public healthcare personnel, services and facilities, accessibility interrogates if the healthcare facilities and personnel are physically within access to all people devoid of discrimination as to disability, financial standing and it also measures if persons have access to sufficient information about healthcare¹⁶. Acceptability on the other hand demands that the healthcare personnel and facilities should not just be physically available but also ethically and culturally proven to be acceptable to the people’s health needs and quality as a standard means that the healthcare personnel and facilities should be of a standard that meets scientific and medical quality and safety.¹⁷

Worthy of mention also is the General Comment 14 which provides for the determining elements for right to health i.e. “underlying determinants of health”. These refer to factors such as the State’s duty to ensure access to health services and facilities devoid of discrimination, access to adequate supply of safe and portable drinking water, access to essential drugs etc.¹⁸ Paragraph 3 of the General Comment’s states that the right to health is dependent and closely related to the realization of rights such as right to human dignity, non-discrimination and even right to life among others.¹⁹

¹⁴ P Oamen (n2)

¹⁵ *ibid*

¹⁶ *ibid*

¹⁷ *ibid*

¹⁸ CESCR, General comment 14 on the Right to the Highest Attainable Standard of Health adopted on 11 May 2000 as Guidance for the Implementation of the Right to Health as provided in Art 12 of ICESCR

¹⁹ D M Chirwa and C I Rushwaya, 'Guarding The Guardians: A Critical Appraisal Of The Protocol To The African Charter On The Rights Of Older Persons In Africa' (2019) 19 Human Rights Law Review.

Other international instruments applicable in Nigeria with regard to right to health include: The Convention on the Elimination of all Forms of Discrimination (CERD) and the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW).

Regional framework

Nigeria has ratified a number of regional instruments under the African Human Rights System including the African Charter on Human and Peoples Rights (ACHPR) and African Charter on the Rights and Welfare of the Child. However, this chapter will focus on ACHPR because of its revolutionary and innovative characteristics. The ACHPR is composed of economic, social and cultural rights, civil and political rights and solidarity rights unlike most other human rights instruments.²⁰ It also provides for some justiciable socio-economic rights; such as the right to receive equal pay for equal work done²¹, right to work under equitable and satisfactory conditions²², right to enjoy the best attainable state of physical and mental health and the right to receive medical attention while sick²³ etc. . Hence, the ACHPR brings these rights closer to the realm of justiciability within the Nigerian context. Further to this, the ACHPR also provides for civil and political rights (articles 2-13), and by implication, because of the interdependence and indivisibility spirit of human rights, the courts have depended on these civil and political rights to protect socio economic rights.

Domestic Framework

The Constitution of a country is the prime document for the expression of agreed human rights values.²⁴ However, this does not undermine the fact that reference can be made to other instruments for the recognition and protection of human rights.

Sections 13 -24 of the 1999 Constitution of the Federal Republic of Nigeria as amended, provide for Economic and Social Rights under the Fundamental Objectives and Directive Principles of State Policy under Chapter II as a general scheme of values that are specifically relevant for the vulnerable and poor in Nigeria. The chapter contains such objectives for the

²⁰ 1999 Constitution of the Federal Republic of Nigeria as amended.
ibid Philip Oamen 13

²¹ Art 15 of the African Charter.

²² Art 15 of the African Charter.

²³ Art 16(1) & (2) of the African Charter

²⁴ N J Udombana, 'Keeping The Promise: Improving Access To Socioeconomic Rights In Africa' [2012] SSRN Electronic Journal.

provision of employment and medical care. These sections of the Constitution showcase the high ideals of a liberal democratic polity and acts as a guideline for action and policy goals.²⁵

Essentially, at most, directive principles constitute a benchmark for critically assessing governmental actions. However, because they are not judicially enforceable (unlike the provisions under civil and political rights), but as directive principles, they can only be described as being constitutionalized without much practical impact. It can be argued that section 13 provides that government and governmental organs, the legislative, executive and judicial powers under the duty to observe, conform and apply the directive principles. However, it is not clear how this duty created under this section can be enforced without an effective mechanism for enforcement²⁶. Hence, this amounts to a duty whose performance is largely constitutionally excused by the same Constitution.²⁷

Two major sections in the Constitution are specifically relevant to access to healthcare. First, Section 16(2)(d) which gives the country the obligation to direct policy towards ensuring adequate and suitable shelter and food, reasonable minimum living wage, pension and old age care, unemployment and sick benefits and welfare for the disabled. Second, section 17 places the nation under the obligation to direct policies towards ensuring that there is equality for employment opportunities, opportunities for securing adequate means of livelihood, conditions for work are adequate and there is also adequate facility for leisure, social, cultural and religious life. It also provides for safety for workers. Worthy of mention also is the provision of section 20 which provides for the right to a clean and healthy environment.

Unfortunately, despite the ample coverage of socio-economic rights by the Constitution, section 6 (6) (c) renders them generally non-justiciable, hence restricting the rights to sue for enforcement in the judicial sphere. It has been observed that 'judicial attitude to socio-economic rights litigation in Nigeria is characterised by great caution and subtle passivity'²⁸. The Nigerian courts employ very strict adherence to the provisions of section 6(6)(c) which greatly hampers justiciability of ESCR in general, and right to health in particular, in Nigeria.

In *Femi Falana v Attorney-General of the Federation*²⁹, the applicant instituted action to enforce the right to health as provided under Article 16 of ACHPR. The applicant sought the

²⁵ P Oamen 13

²⁶ S Ibe, 'Beyond Justiciability: Realising the Promise of Socio-Economic Rights in Nigeria' (2007) 7 African Human Rights Law Journal 225.

²⁷ ibid P Oamen 13

²⁸ ibid

²⁹ 4 Suit No. FHC/IKJ/CS/M59/2010 (unreported) deliberated on 10 January 2011

court to force the Federal Government to repair and upgrade medical facilities in the country. The trial court struck the suit out on the premise that a suit relating to the provisions under Directive Principles fall outside the jurisdiction of the court as adumbrated by section 6(6)(c) of the Constitution.

Some of the Complaints Received by the Commission on right to Health are as Follows:

KTSO/C/2021/009

The Commission received a complaint dated 18th January, 2021 from DY of Katsina State against their parent's neglect of her sister, DY complained of denial of medication. She alleged that her sister is suffering from breast cancer but she is being neglected by her parents and her health condition is deteriorating.

JG/C/2021/024

The Commission received a complaint dated 17th March, 2021 from Y of Dutse Local Government Area of Jigawa State. Y alleged that on 15th March 2021, his wife was denied access to health care by the Doctor at the specialist hospital in Dutse, Jigawa State.

C/BAU/2021/453

The Commission received a complaint dated 27th July, 2021 from DY of Bauchi State. DY alleged that on 11th March 2019, his son was infected with the Human Immunodeficiency Virus (HIV) due to negligence by staff of government hospital when his son went for treatment at the hospital.

C/2021/884/KN

The Commission received a complaint dated 30th November, 2021 from Y of Hausari Dandal Way, Maiduguri, Borno State. Y alleged medical negligence and dereliction of duty by the respondent after having paid the respondent's professional fee amounting to two hundred and sixty-eight thousand, five hundred- and seventy-eight-naira, forty-one kobo (N268,578.41)

Media report on right to health

1. On 10th August, 2021 Daily Trust Newspaper at page 4 reported that Cholera outbreak has claimed 816 lives from the beginning of this year with 31,425 suspected cases from 22 States and the Federal Capital Territory (FCT). This was made known in a situation report by the Nigeria Centre for Disease Control (NCDC) on Monday.

2. On 10th August, 2021 Daily Trust Newspaper at page 30 reported the increasing rate of malaria related deaths across the country. This was made known by the Minister of Health, Osagie Ehanire represented by Timi Obot, the Team Lead for Advocacy against Malaria. The Minister stressed the need to combat the disease so as to avoid uncontrollable death of malaria across the country.
3. On 11th August, 2021 Daily Trust Newspaper at page 8 reported that at least 146 people have died in Kebbi State, following a cholera outbreak that raged the state in the last few weeks. Report had it that the Chief Medical Director, Dr Aminu Haliru Bunza and 2,208 had been affected by the disease so far.
4. On 20th August, 2021 Daily Trust Newspaper at page 36 reported that cholera has killed 132 people in Kaduna State in five months. The state Commissioner of Health, Dr Amina Muhammd Baloni who disclosed the news said that waterborne disease killed the victims between April and August across 19 local government areas of the state.
5. On 30th August, 2021 The Guardian Newspaper at page 13 reported that Okoro Ositadinma, 29, has called on Nigerians to assist him with N13 million to enable him undergo urgent kidney transplant.
6. On 31st August, 2021 Daily Trust Newspaper at page 26 reported that the Team Lead, Edo State COBID-19 Task Force, disclosed that seven persons have died of coronavirus in the last two weeks. The deaths recorded so far are unvaccinated persons.
7. On 31st August, 2021 Daily Trust Newspaper at page 26 reported that residents of border communities in Borno State have complained of weak healthcare provisions, which compelled them to seek medical treatments in neighbouring Cameroon and Niger.

Conclusion/Recommendation

The Nigerian Constitution is the '*grundnorm*' from which all other laws must stem from. Therefore, any provision of the Constitution especially as it relates to ESCR that is not justiciable goes against the full realization of the socio-economic rights under chapter II of the edtant Nigerian Constitution. This chapter therefore recommends that Chapter II of the Constitution be amended and made justiciable.

Furthermore, the chapter recommends that the judicial arm of government collaborate with the other arms of government and other key stakeholders in a bid to decipher how best ESCR should be promoted and protected. This will guarantee that all the different categories of rights are placed on an equal footing. It will guarantee that Nigerians will enjoy full constitutional rights and make the government accountable to the people in accordance with the Constitution. This is because the full realization of civil and political rights is impossible without the ability to enjoy economic, social and cultural rights.

CHAPTER TWELVE

RIGHT TO EDUCATION

By

Uche Okwuobi*

Introduction

The relevance of Education in any society cannot be over emphasised. It is as an essential tool to improving the quality of life in any modern society. Education can be conceived as the “transmission of the values and accumulated knowledge of a society”¹. The development of the mind through enlightenment and understanding of behavioural formation ultimately rests on the foundation of quality education. Thus, Nelson Mandela noted in his speech at Madison Park High School, that Education is the most powerful weapon which can be used to change the world; no country can really develop unless its citizens are educated.² Similarly, the UN Secretary-General, Antonio Guterres, during the launch in August 2020 of his Policy Brief on Education stated that: “Education is a fundamental human right and a key to realising all other human rights – whether it be social, economic, or cultural rights, or political and civil rights. It is the basis for a just, equal, and inclusive societies and a main driver of sustainable development.”³

Conceptual Clarifications of Terms

Education has been conceptualised in diverse ways by organisations and scholars. UNESCO simply defines education as the process by which societies deliberately transmit their accumulated information, knowledge, understanding, attitudes, values, skills, competencies, and behaviours across generations.⁴ By inference, this means that education is not only an acquisition of information and knowledge but also the values and competence which are applied in everyday life to bring about a shift in behaviour. Yoloye, however remarked

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¹ A Moumouni, ‘Education’ available at < <https://www.britannica.com/topic/education>> accessed 17 April 2022.

² Nelson Mandela’s Speech, Madison Park High School, Boston, 23 June 1990.

<https://www.odfordreference.com/view/10.1093/acref/9780191843730.001.0001/k-oro-ed5-00007046>

³ ECW, ‘ Education is a fundamental human right and the priority of the 21st century’

<[https://ecw.edposure.co/education-is-a-fundamental-human-right- /](https://ecw.edposure.co/education-is-a-fundamental-human-right-/).Accessed > accessed 17 April 2022

⁴ UNESCO UIS, ‘Global. ISCED 2011’ < <http://uis.unesco.org/sites/default/files/documents/international-standa...> <http://uis.unesco.org/Accessed on 11/4/2022>> accessed 17 April 2022.

that education is a weapon for combating ignorance, poverty and disease, as a bridge between confusion and comprehension, as a dam for conserving man's store of civilization, as a rocket for transporting man from a state of intellectual subservience to a state of intellectual sovereignty⁵. Also the Committee on Economic, Social and Cultural Rights conceptualises Education as means of realizing other human rights and it states:

“As an empowerment right, education is the primary vehicle by which economically and socially marginalized adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities”⁶, Furthermore Education plays a vital role in empowering women, safeguarding children from exploitative and hazardous labour and sexual exploitation, promoting human rights and democracy, protecting the environment, and controlling population growth⁷. The Committee emphasised that education is recognized as one of the best financial investments States can make⁸. Education is not just practical: a well-educated, enlightened, and active mind, able to wander freely and widely, is one of the joys and rewards of human existence⁹. From the above concepts, Education is therefore all encompassing and can make a huge difference in the development of every country.

The Universal Declaration of Human Rights (1948) provides for the fundamental human right for everyone not to be discriminate against¹⁰. Right to Education provides for all types and levels of education and also ensures and includes access to Education, the Standard and quality of Education and conditions under which it is given¹¹.

Legal Framework

International and regional

Several International, Regional instruments (treaties, conventions, covenants) have provisions on Right to Education including International Covenant on Economic Social and Cultural Rights (Article 13), Convention on the Rights of the Child (Article 29), Convention on the Elimination of All Forms of Discrimination Against Women (Article 10), International Convention on the Elimination of All Forms of Racial Universal Declaration of Human

⁵ E A Yoloje, *Developing and understanding education* (Ibadan University Press 1980)...page.

⁶ UN, 'General Comment No. 13: The Right to Education' (Article 13) (1999).
<https://www.ohchr.org/en/resources/educators/human-rights-education-training/d-general-comment-no-13-right-education-article-13-1999> accessed 5 September 2022.

⁷ *ibid*

⁸ *ibid*

⁹ *ibid*

¹⁰ <<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-discrimination-education>> accessed 5 September 2022.

¹¹ *ibid*

Rights (Article 26), UNESCO Convention Against Discrimination in Education (CADE), International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Article 65) and Convention on the Rights of Persons with Disabilities (Article 8). International Convention on the Protection of the Rights of All Migrant Workers and Members of their families (1990) and Convention on the Rights of Persons with Disabilities (2006).¹²

The CADE specifically recognizes the provisions of the UDHR on Education and its assertion on the principles of Non-discrimination. Also the Convention on the Elimination of All forms of Racial Discrimination, requires the States Parties to eliminate ‘racial discrimination in all its forms’ in regard to ‘the right to education and training’, among several other rights.

According to the Universal Declaration on Human rights and the International Covenant on Economic, Social and Cultural Rights, the right to education includes the right to free, compulsory primary education for all, and state obligation to develop secondary education accessible to all.

At the regional level we have; African Charter on Human and Peoples’ Rights, Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa (Article 12), African Youth Charter (Articles 13, 20)

Municipal/Domestic laws

Nigeria’s Educational obligations are guided by the provision in the Universal Declaration of Human Rights (UDHR), Article 26 of which provides that “Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory”¹³.

The Right to Education is also inherent in the 1999 Constitution of the Federal Republic of Nigeria as amended, section 18.¹⁴ It enumerates the objective of the fundamental obligation of the government. It states that:

- (1) Government shall direct its policy towards ensuring that there are equal and adequate educational opportunities at all levels;

¹² Right to Education Initiative ©2022.<https://www.right-to-education.org/page/international-law>. Accessed on 13/4/2022

¹³ UN, 1964. Universal Declaration of Human Rights. <https://www.un.org/en/about-us/universal-declaration-of-human-rights.com>

¹⁴ Section 11(18)1999 Constitution of the Federal Republic of Nigeria as amended

- (2) Government shall promote science and technology;
- (3) Government shall strive to eradicate illiteracy; and to this end Government shall as and when practicable provide;
 - (a) Free and compulsory and universal primary education
 - (b) Free secondary education
 - (c) Free university education and
 - (d) Free adult literacy programme

Aside the constitutional provision, right to education is also provided for in the Child's Right Act (CRA) 2003 Section 15, the National Policy on Education (NPE) and Universal Basic Education Act 2004 (UBEC). In Nigeria, the National Policy on Education (NPE, 2013) is the highest educational policy. The NPE is a legal document elaborating on the guidelines, principles, philosophy, procedures, rules and practices regarding the operation of various education systems. As the document is legally valid, it is essential that all educational activities be operated in accordance to it; furthermore, the actions of various stakeholders and actors in education must be guided by the national policy.¹⁵.

The UBEC brought reforms into the educational system and provided for compulsory primary and junior secondary education. The Act was an initiative led by UNESCO as part of the millennium development goals whose objectives to help early childhood development and education, reduce the level of school dropout and improve relevance, quality, efficiency and acquisition of literacy, numeracy, values, life skills for lifelong education and meaningful living.¹⁶

Nigeria is also a signatory to the 17 Sustainable Development Goals of the United Nations. The Sustainable Development goals number 4 is centred around education, with broad target of ensuring inclusive and equitable quality education and promotes lifelong learning opportunities for all by 2030.

The SDG4 has seven basic targets, with three corresponding means of implementing the targets. The specific targets are to:

¹⁵ ibid

¹⁶ Bictor, C 2019. 10 Importance of Universal Basic Education. <https://infoguidenigeria.com/importance-universal-basic-education> Accessed 18/4/2022

- i. By 2030, ensure that all girls and boys complete free, equitable and quality primary and secondary education leading to relevant and Goal-4 effective learning outcomes
- ii. By 2030, ensure that all girls and boys have access to quality early childhood development, care, and pre-primary education so that they are ready for primary education
- iii. By 2030, ensure equal access for all women and men to affordable and quality technical, vocational, and tertiary education, including university
- iv. By 2030, substantially increase the number of youth and adults who have relevant skills, including technical and vocational skills, for employment, decent jobs, and entrepreneurship
- 6. By 2030, eliminate gender disparities in education and ensure equal access to all levels of education and vocational training for the vulnerable, including persons with disabilities, indigenous peoples, and children in vulnerable situations
 - 6i. By 2030, ensure that all youth and a substantial proportion of adults, both men and women, achieve literacy and numeracy
 - 6ii. By 2030, ensure that all learners acquire the knowledge and skills needed to promote sustainable development, including, among others, through education for sustainable development and sustainable lifestyles, human rights, gender equality, promotion of a culture of peace and non-violence, global citizenship, and appreciation of cultural diversity and of culture's contribution to sustainable development.

The three means of achieving the above targets are:

- i. Build and upgrade education facilities that are child, disability, and gender sensitive and provide safe, non-violent, inclusive, and effective learning environments for all
- ii. By 2020, substantially expand globally the number of scholarships available to developing countries, in particular least developed countries, small island developing States and African countries, for enrolment in higher education, including vocational training and information and communications technology,

technical, engineering and scientific programmes, in developed countries and other developing countries

- iii. By 2030, substantially increase the supply of qualified teachers, including through international cooperation for teacher training in developing countries, especially least developed countries and small island developing states¹⁷.

Education is considered as a heritable instrument to achieving other goals of sustainable development. Thus, goal number 4 of the SDGs is laudable with its impressive specific targets, tagged quality education. It is therefore supposed that a well-educated people should be able to lift themselves from poverty, labour, exploitation and disease. Moreover, the necessary skills acquired should be an enablement for gaining confidence to reach one's full potential.

Over the years, a great commitment to education sector remains a key aspect to the development and the advancement of the nation. In Nigeria, education is considered one of the vital instruments for change and rated in the national development plans. This explains why the Nigerian government has continually enacted various policies towards attaining national development.

The educational system in Nigeria is overseen by the Federal Ministry of education which has the responsibility for overall policy formation and ensuring quality control. The system is based on the (1)-6-3-3-4 formula: one-year pre-primary education, six years primary, three years junior secondary, three years senior secondary, and a minimum of four to six years for tertiary institution depending on the course of study.¹⁸

Nigeria also has endorsed and signed the safe school declaration on May 29th, 2015 and March 8, 2018 respectively¹⁹. This is an inter-governmental political obligation and community of nations to protect students, teachers, schools, from the attacks and effects of insurgency and armed conflicts²⁰. By endorsing the Declaration on safe schools, States commit to restoring access to safe education and developing education systems that are susceptible to conflict and to promote respect between diverse groups. It also offers guidance

¹⁷ UN, 'Transforming our world: the 2030 Agenda for Sustainable Development', available at <<https://sdgs.un.org/2030agenda>> accessed 15 April 2022

¹⁸ 'Education in Nigeria' .available at <https://www.wes.org/2017/03/education-in-nigeria>.Accessed> accessed 15 April 2022.

¹⁹ 'Global Coalition to Protect Education from Attack .2022. The Safe Schools Declaration': available at <https://ssd.protectingeducation.org/> accessed on 16 April 2022.

²⁰ *ibid*

on critical measures that armed forces and armed non-state actors can adopt to dissuade military use of educational facilities, to minimise and mitigate the risk of attack.²¹

Media report on right to education

1. On 4th August, 2021 This Day Newspaper at page 61 reported that the President of the American University of Nigeria, Dr. Margee Ensign, says closing schools because of bandits will increase out-of-school children. She blames the government for low level of protection and security it provides in school.
2. On 20th September, 2021 ThisDay Newspaper at page 59 reported that the Vice President, Yemi Osinbajo has called on government at all levels to deliberate on their roles on provision of basic education for the benefit of all Nigerians, especially the girl-child.
3. On 23rd September, 2021 This Day Newspaper at page 28 reported that the United Nations Resident and Humanitarian Coordinator for Nigeria, Mr. Edward Kallon, had strongly condemned the incessant attacks on schools and kidnappings that have affected hundreds of children in a number of states in Nigeria.
4. On 30th September, 2021 Daily Trust Newspaper at page 12 reported that the Executive Secretary of the National Human Rights Commission, Tony Ojukwu, urged the Federal Government to protect schools from attack, especially killing and abductions of students.
5. On 6th October, 2021 This Day Newspaper at page 31 reported that the Minister of State for Education, Mr. Chukwuemeka Nwajiuba stated that the Federal Government had made remarkable achievements in addressing the challenges of out of school children. According to him, the \$611 million disbursed to 17 states in 2016 to tackle the phenomenon made impacts.

Conclusion and Recommendation

Education is the principal key to unlocking a country's potentials for sustainable development. It is equally a means of empowering and liberating and enabling people access to economic opportunity and equipping them with all that is needed to fully participate in the society and build a better society. Quality education prepares the youth ahead of the challenges they will encounter in their future. On the other hand, accessing quality education requires a safe and friendly environment, qualified teachers, the government need to re-

²¹ (n 18)

address the issues. As laudable as educational policies and the goals number 4 of the SDGs are, one will need to ask of the extent the Nigerian Government can go at meeting these targets and provide an enabling environment for a thriving educational system.

CHAPTER THIRTEEN

LABOUR RIGHT

By

Angela Ogbame*

Introduction

Labour Rights are important human rights and are part of the National Human Rights Commission's Thematic Areas of Focus. Labour rights are summarized as right to work which is itemized from International, Regional and National Laws i.e. right to work in just and humane conditions, right to work in safe and healthy environments, and right to equal pay for equal work without discrimination on account of sex, or on any other ground whatsoever.

Conceptual Clarification/Definition

Right to just and human conditions of work

This means that workers have the rights to work in environments where there is justice, and fairness in the way the work is being allocated in line with qualifications, abilities and how entitlements/benefits are accordingly given to deserving workers.

Right to safe and healthy Environment

This means that all workers should work in safety; the employer has a duty and obligation to provide at least first aid medical tools whenever necessary.

Right to equal pay for equal work without discrimination on account of sex or on any other ground whatsoever

This means that workers should receive whatever monetary entitlements in fairness and in accordance with qualifications and specific duties carried out.

Right to strike

Employees both at the Public and Private Sectors have the right to belong to labour Unions (Right to Freedom of Association is contained under Section 38 of the 1999 Constitution of

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the Federal Republic of Nigeria (as amended)). When there are issues of dissatisfaction with regards to low wages and poor conditions of work, employees have a collective right of going on strike to express their grievances. Employees have a right to go on strike as long as they have given adequate notice of their intention to go on strike. In Nigeria, strike is not a fundamental right but there have been struggles by the Nigerian Labour Congress and the Trade Union to ensure its express entrenchment in the Constitution. This is more so, as other Countries of the world have accepted strike as an indispensable component of a democratic society.

Right to Compensation

The right to compensation is rooted in the accepted principle that the employer has a duty of care, a duty to protect the health, welfare and safety of workers at work. Where the worker sustains injuries, gets ill or dies in work related circumstances, the employer is liable to pay compensation to the worker or to his dependents, in the event of death (the Employee Compensations Act, 2010).

Legal Framework International/ Regional

Article 23 Universal Declaration of Human Rights provides “Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment”.

Article 15 African Charter on Human and Peoples’ Rights provides “Every individual shall have the right to work under equitable and satisfactory conditions, and shall receive equal pay for equal work”.

Municipal/ Domestic

Section 17(3a) Chapter 2, 1999 Constitution of the Federal Republic of Nigeria (as amended) provides that “all citizens, without discrimination on any group whatsoever, have the opportunity for securing adequate means of livelihood as well as adequate opportunity to secure suitable employment”.

Section 17 (3b) Chapter 2 thereof provides - “Conditions of work are just and humane, and that there are adequate facilities for leisure and for social, religious and cultural life”.

Section 17(3c) provides that “the health, safety and welfare of all persons in employment are safeguarded and not endangered or abused”.

Section 17 (3e) provides “there is equal pay for equal work without discrimination on account of sex or any other ground whatsoever”.

Some of the Complaints Received by the Commission on Labour Rights are as Follows

ESO/2021/121

The Commission received a complaint dated 20th April, 2021 from D against her employer. D alleged discrimination, threat to life and denial of right to remuneration by her employer in Enugu State.

C/2021/1198/BSO

The Commission received a complaint on 4th August, 2021 from DY of Phase II Federal Housing Estate Afao Road, Ado Ekiti on alleged non-payment of entitlements. DY alleged that his elder brother died in 2014 and his benefits with Premium Pensions have not been paid to his next of kin.

NHRC/TSO/C/2021/187

The Commission received a complaint dated 23rd March, 2021 from Y who alleged that he was dismissed by his employer for the minor mistake of allowing water into their security room unknowingly. Y alleged that he was not given fair hearing before his dismissal. Y further alleged that he is being owed his March 2021 salary and as well as his transport fare back to Kogi State.

C/BAU/2021/010-013

The Commission received a complaint dated 12th January, 2021 from D of Unguwan Maiwuro, Gumau, Toro LGA, Bauchi State alleging that her late husband worked and died as a Corporal with the Nigeria Police Force and that since the death of the husband, the police is yet to pay the death benefits of her husband and father of her twelve (12) children.

C/BAU/2021/057

The Commission received a complaint dated 21st September, 2020 from DY alleging that his father worked for Tafawa Balewa LGA Primary Education Board and retired in July, 2011 and that his father has since then not been paid his retirement benefits

C/BAU/2021/057

The Commission received a complaint dated 21st September, 2020 from Y alleging that his father worked for Tafawa Balewa LGA Primary Education Board and retired in July, 2011 and has since then not been paid his retirement benefits.

C/BAU/2021/269-277

The Commission received a complaint dated 6th May, 2021 from Y of Tafawa Balewa LGA, Bauchi State alleging that himself and his siblings were denied their late father's entitlements by the Nigeria Police Force.

C/BAU/2021/411

The Commission received a complaint dated 1st July, 2021 from Y Bauchi, alleging that he was an employee of a construction company and that he sustained injuries in the line of duty. Y further alleged that the company abandoned him to cater for his hospital bills and eventually dismissed him without paying compensation.

C/2021/1196/BSO

The Commission received a complaint dated 11th August, 2021 from Y of Ajiu Street North Bank Makurdi. Y alleged that he sustained injuries from a company's site while at work and the company failed to treat him since April 2021.

NHRC/OG/21/052

The Commission received a complaint dated 12th April, 2021 from Y of Shagamu, Ogun State, who alleged that the company he worked for denied him proper health care. Y also alleged that while working at the company on 15th February, 2021 at Shagamu Ogun State, a fork lifter vehicle fell on his leg and cut it and since the time of the incidence, the company has not provided him medical care.

C/BAU/2021/132 - 142

The Commission received a complaint dated 1st March, 2021 from Y of Danruwata Street, Bauchi, Bauchi State alleging that he and (10) others worked as teachers at Harbard International School, Bauchi and that they were denied their entitlements by the school.

C/2021/35/EDO

The Commission received a complaint dated 14th April, 2021 in Benin City from Y, who alleged that his appointment was unlawfully terminated at his place of work situated in Benin City.

NHRC/OG/21/089

The Commission received a complaint dated 30th July, 2021 from Y, who alleged that his employer, a Limited Liability Company, did not provide him with health services after he was accidentally injured on 11th July 2021 while working with a compression machine which led to loss of his two fingers nor did they pay him any compensation.

C/BAU/2021/211

The Commission received a complaint dated 6th April, 2021 from D of Kobi Street, Bauchi alleging that she was denied right to her entitlements as an employee of Bauchi State by Yankari Microfinance Bank, Bauchi.

C/BAU/2021/411

The Commission received a complaint dated 1st July, 2021 from Y stating that he is an employee of a Construction Company in Bauchi and that the company abandoned him after he sustained injuries in the line of duty and later on dismissed him without compensation.

C/BAU/2021/269-277

The Commission received a complaint dated 6th May, 2021 from Y of Tafawa Balewa LGA, Bauchi State alleging that himself and his siblings were denied the right to their late father's entitlements by the Nigeria Police Force.

C/2021/ESCR/90/AKR

The Commission received a complaint from Y of Odojoka Street, Akure, Ondo State on the 19th July, 2021 alleging that his former employers owed him six months' salary. Y claimed that he worked with the company for about a year and he has an outstanding payment which was not paid before his resignation in February 2021.

C/2021/032/ADSO

The Commission received a complaint dated 8th March, 2021 from D who resides at Badarisa, Girei LGA, Adamawa State. D alleged non-payment of remuneration by her employer after two (2) years of service.

NHRC/ABS/2021/132

The Commission received a complaint dated 7th September, 2021 from Y of Umuahia, Abia State, alleging that he was unfairly laid off after a ghastly motor accident without being paid severance pay by his employers.

C/2021/IMS/106

The Commission received a complaint from Y dated 7th June, 2021 alleging that his appointment was wrongfully terminated by his employer without following due process as stipulated in the company's rules and regulations. Y also alleged that his benefits and entitlements are still being withheld.

GSO/C/2021/093

The Commission received a complaint dated 29th April, 2021 from D of Gombe alleged that she entered into an agreement with her employer that she will be paid on a monthly basis and after working for two months, her employer refused to pay her.

NHRC/OG/21/089

The Commission received a complaint dated 30th July, 2021 from Y of Abeokuta, Ogun State, who alleged that his employer, a limited liability company did not provide him with health services after he was accidentally injured on 11th July 2021 while working with a compression machine which led to loss of his two fingers. Y alleged negligence and non-payment of compensation.

NHRC/OG/21/079

The Commission received a complaint on 17th July, 2021 from DY of Abeokuta, Ogun State who alleged that his brother suffered an injury leading to the amputation of his leg as a result of negligent driving of a trailer by a driver of a Chinese company on 27th February, 2021. Y stated that his brother was not paid compensation by the company.

NHRC/OG/2021/054

The Commission received a complaint dated 6th April, 2021 from Y of Abeokuta, Ogun State, who alleged that he sustained an injury while in the service of Y2 who refused to pay him compensation.

C/2021/1194/BSO

The Commission received a complaint dated 10th August, 2021 from Y of Calabar Street High Level, Makurdi, Benue State on alleged non-payment of entitlements. Y alleged that he was retired in 2006 from the Federal Ministry of Works and Housing and screened in 2017 but till date, he has not started receiving his pension.

JG/C/2021/012

The Commission received a complaint dated 11th February, 2021 from Y of Madobi Town, Jigawa State stating that he was a public servant with a Federal Ministry from 1994-2006. Y alleged that on 31st July, 2006, he was disengaged due to the Public Service Reforms exercise by the Federal Government and has since then not been paid his benefits and entitlements

GSO/C/2021/051

The Commission received a complaint dated 19th March, 2021 from Y alleging that his employer instructed that he collect a bag of rice for him which he will later pay to the owner. Y further alleged that the employer failed to pay for the bag of rice and thereafter, he was disengaged from service by the employer for reminding him of the outstanding payment.

NHRC/C/2021/YSO/DT/061

The Commission received a complaint dated 7th April, 2021 from Y of Ali Akilu Road, Yobe State, alleging that he had a ghastly motor accident and sustained serious injuries while working for a cement factory. Y further claimed that the injuries resulted in losing his left leg and he was not paid his entitlements for three (3) years after which he was advised to resign.

Media report on labour right

1. On 5th July, 2021 Daily Trust Newspaper on page 7 reported that the Kano State Governor, Abdullahi Umar Ganduje, has approved the recall of all the 6,995 teachers on the government payroll posted to private, community and voluntary schools in the State. He also approved a systematic review of the existing arrangement that suffices the posting of teachers to such schools so that eligible schools may apply to strengthen their manpower capacity.
2. On 5th July, 2021 The Guardian Newspaper on page 7 reported that the Executive Secretary of the Federal Commission for Persons with Disabilities (PWD), James Lalu has disclosed plan to push for the commencement of an academic programme in accessibility engineering to produce technical specialist in area of accessibility for Persons Living with Disabilities.
3. On 9th July, 2021 The Guardian Newspaper on page 29 reported that the Akwa Ibom State Cooperative Fisheries Association has protested against Edfon Mobil's failure to pay compensation for oil spillages in some communities at the National Human Right Commission (NHRC) office in Abuja. The group pleaded with the Federal Government to

do everything possible within the confines of the law to ensure that justice prevailed in this matter.

4. On 25th October, 2021 The Guardian Newspaper at page 13 reported that the Federal Polytechnic, Bauchi had disengaged two of its lecturers, Malam Abubakar Baba and Mr. Adebuseye Sunday, over allegation of sexual harassment of students. The Rector, Mr. Sunusi Gumau, who announced the dismissal at the end of 98th meeting of the council, said the culprit had been sacked after thorough investigation.

Conclusion/ Recommendation

The National Human Rights Commission has been receiving complaints bothering on violation of Labour Rights and has been handling such complaints i.e. seeking redress for the victims in accordance with the International, Regional and National legal provisions available.

In view of the importance of this aspect of the Commission's thematic area of focus, there have been concerted efforts at ensuring that the rights of the victims of violation of labour rights are promoted, protected and enforced.

CHAPTER FOURTEEN RIGHTS OF THE CHILD

By

Olanrewaju Musa Murtala*

Introduction

The declaration of the rights of the child entitles the child to have a standard childhood enjoyment and protection for the good of the child and society. This calls upon parents, men and women as individuals, and upon voluntary organizations, local authorities and national Governments to recognize these rights and strive for their observance by legislative and other measures progressively taken in accordance with the basic rights principles adopted by the UN General Assembly Resolution 1386 (DIB) of 10 December 1959.¹

Policymaking that fails to take children into account has a negative impact on their future and on all members of society. The dynamics of home decisions should put children's views to be heard on the front burner. With special attention to the opinions of children at home and in schools, in local communities and even in government policy decisions, their views will not go unheard on many important issues that affect them now or that will affect them in the future. Social safety nets in many countries have strong impacts on children. The impact of these changes can be particularly devastating in situations of neglect on children and those of them in emergency situations.² Children therefore need to be afforded special protection until they have reached a level of physical, mental and emotional maturity to take on the duties and responsibilities of an adult. This suggests that before this age of 18 years of a child's definitive adulthood, a child is still developing and has physical, psychological and social needs that must be met to enable healthy growth and development. While children's abilities and capacities increase over time as they grow, their vulnerabilities reduce from infancy through adolescence, and their need for attention and guidance from parents, teachers and community members at large remains at each stage.

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¹ UN General Assembly, 'Declaration of the rights of the Child,' (Resolution 1386 (DIB) of 10 December 1959) available online at <https://www.jwfacts.com/pdf/un-declaration-rights-of-child-1959.pdf> accessed 28 April 2022.

² UNICEF, 'Child rights and why they matter' available online at <https://www.unicef.org/child-rights-convention/child-rights-why-they-matter> accessed 7 May 2022.

This chapter seeks to show that to ensure the protection for the rights of the child, all the law needs to be deployed for the growth of a fully functional child to enable him/her attain their potential in life.

Conceptual Definition/Clarification

What are children's rights?

Children's rights are human rights. These rights are entitlements that need to be accorded to the child simply because they are humans. A glossary of child's rights entails seeking a more just world for children as a collective responsibility of all. Children must be treated with equality, respect and dignity, not because they are "the future" or the "adults of tomorrow", but because they are human beings. All humans are born inherent with fundamental freedoms and rights.

In other words, children must enjoy the same human rights as everybody else - from the right to freedom of expression to the right to privacy. This means all human rights laws apply equally to children and adults.

However, children are afforded a low status in most societies. For example, in almost every country child under the age of 18 are denied political power because they cannot vote, and most countries allow parents to hit their children even though they would be prosecuted for assault if they hit an adult. This means that as a vulnerable group, children have specific rights to help protect them from the threats, exclusions and discrimination they are vulnerable to. These rights are embodied in international law in the Convention on the Rights of the Children (CRC) and its Optional Protocols - one on the sale of children, child prostitution and child pornography; another on armed conflict; while another sets up an international complaints mechanism so cases of children's rights abuse can be taken to the UN.

Legal Framework

There are numerous instruments be it national, regional and international laws that address the vast array of rights of the child. These include:

International instruments

An International instrument such as the United Nations Convention on the Rights of the Child, (CRC) was adopted and opened for ratification and accession by General Assembly Resolution 44/25 of 20 November 1989 with obligations of member states to respect and reaffirm their faith in fundamental human rights of dignity and worth of the human person, recognizing that the child's personality in a family environment, in an atmosphere of happiness, love and understanding. Above all, Article 3 captures it that "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law,

administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration”.³

Regional Instruments

There is a regional instrument. The African Charter on the Rights and Welfare of the Child (1990), adopted by Organization of African Unity’s Assembly of Heads of State and Government at its Sixteenth Ordinary Session in Monrobia, Liberia, from 17 to 20 July, 1979, recognized the need to take all appropriate measures to promote and protect the rights and welfare of the African Child.⁴

Domestic laws and policies

A couple of Nigeria’s municipal laws make adequate provisions for the rights of the child. These include:

(i) The Constitution of the Federal Republic of Nigeria, 1999 as amended (the Nigerian Constitution) that recognizes all the fundamental rights as contained in chapter four of the Nigerian Constitution, Sections 33-41 for application to the child even though some may require the guidance of any adult guardian.⁵

(ii) Child’s Rights Act (2003)

Nigeria adopted the United Nations Convention on the Rights of the Child, (CRC) and the African Charter on the Rights and Welfare of the Child (ACRWC) for domestication in 2003. This resulted in the Child Rights Act (CRA 2003) known to serve as a legal document for the protection of children's rights and responsibilities in Nigeria. However, states have the liberty to further adoption of the Child Rights Act (2003) in the federation. There is remarkable progress over 19 years ago when the law was passed giving impetus to thirty-four (34) out of thirty-six (36) states including the FCT to have domesticated the (CRA 2003). Thus,

³ The United Nation, ‘Convention on the Rights of the Child,’ available online at <https://www.unicef.org.uk/wp-content/uploads/2010/05/UNCRC_united_nations_convention_on_the_rights_of_the_child.pdf> accessed on 1 November, 2022

⁴ ‘The African Charter on the Rights and Welfare of the Child,’ available at <https://au.int/sites/default/files/treaties/36804-treaty-african_charter_on_rights_welfare_of_the_child.pdf> accessed on 1 November, 2022

⁵ Constitution of the Federal Republic of Nigeria 1999, as amended, available at <<https://nigeriarights.gov.ng/files/constitution.pdf>> accessed on 1 November, 2022

expectedly, the situation of protection and comfortable livelihood for children would improve in Nigeria.

(iii) The Universal Basic Education Act of 2004 (the UBE Act) unequivocally guarantees compulsory, free universal basic education to all children in Nigeria. The Act mandates stakeholders in education to ensure that every parent or person who has the care and custody of a child performs this duty imposed on him under section 2(2) of this Act.⁶ This is in line with the 2030 Agenda of the Sustainable Development Goal (SDG) 4 which has 10 targets encompassing many different aspects of education including all girls and boys having access to quality early childhood development, care and pre-primary education.⁷

(iv) There is the National Policy on Infant and Young Child Feeding in Nigeria (2005) which makes it sanctified the provision of adequate nutrition during infancy and early childhood as a basic requirement for the development and promotion of optimum growth, health and behaviour of the child.⁸

(v) The National Policy on Children with Special Needs (2015) was a component of the National Policy on Education (NPE) 1977 that paid attention to the issues of Special Needs Education by creating a section for it. The implementation of the Policy between 1978 and 2013 further made necessary, interventions which include among others: teacher development, institutional development framework, the establishment of special schools, curriculum reviews and other initiatives by the Government and Non-governmental Organizations (NGOs). However, the National Policy on Special Needs Education (2015) is to create the least restrictive environment for all irrespective of circumstances of life, setting and services. And also the total inclusion of Persons with Special Needs within the ambience of societal operation.

Perspectives on children's rights to be heard

There are many reasons for singling out children's rights in a separate human rights Convention. Firstly, they are individuals with equal status as members of the human family,

⁶ Compulsory, Free Universal Basic Education Act, 2004, available at <<https://www.ilo.org/dyn/natled/docs/ELECTRONIC/87623/99979/F606926563/NGA87623.pdf>> accessed on 2 November, 2022

⁷ Sustainable Development Goal (SDG) 4 available at <<https://en.unesco.org/education2030-sdg4/targets>> accessed on 2 November, 2022

⁸ 'National Policy on Infant and Young Child Feeding in Nigeria,' available at <<http://www.iycn.org/files/NigeriaFinalNationalPolicyIYCFupdated260405.pdf>> accessed on 2 November, 2022

Secondly, they rely on adults for the nurture and guidance they need to grow towards independence given that children start life as totally dependent beings in their families. But when primary adult caregivers cannot meet children's needs, it is up to the State as the primary duty bearer to find an alternative in the best interests of the child. Practically, government policy on education and public health that affects children to some degree needs to be taken seriously. Ineffective policymaking that fails to take children into account definitely has a negative impact on them.⁹ Therefore a society that fails its children has a huge cost to cope with in the future. This underscores the need for children's views to be heard and considered in the political process and on many important issues that affect them and or will affect them in the future.

Child's rights to private and family life

The broad interpretation of the concept of 'private life' includes the case of body integrity. For the purpose of this chapter, it includes a child's autonomy, self-determination and the right to control who sees and touches his/her body in the best interest of protection for the child's wellbeing. In fact, the only person with the right to make a decision about the child's body is that child, no one else. For example, the public authorities cannot do things, such as an example, leave a child undressed in a busy ward, or take a blood sample without the caregivers' permission on behalf of the child. The respect for the rights of the child under any such circumstance in areas where decisions are taken on behalf of the child should consider his/her privacy, paramount.

Article 16 of the United Nations Convention on the Rights of the Child addresses the child's rights to privacy thus:

“No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, or correspondence, nor to unlawful attacks on his or her honour or reputation.”

Family life includes relationships of anyone with an adopted child and the adoptive parent or a foster parent and fostered child in relation right to housing. It is a child's right to enjoy an existing peaceful home. This means that public authorities or individuals should not stop a

⁹ (n 2)

child from entering or living in his/her home without very good reason or as may be guided by the law.¹⁰

Child's rights to protection by state parties

Convention on the Rights of the Child **Articles 3, 4 and 5** explicitly protect the child as follows:

Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.
2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.
3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform to the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

Article 4

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international cooperation.

Article 5

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a

¹⁰ Equality & Human rights, 'Article 8 protects your right to respect for your private and family life' available online at <<https://www.equalityhumanrights.com/en/human-rights-act/article-8-respect-your-private-and-family-life>> accessed on 27 May 2022.

manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child is recognized in the present Convention.¹¹

Child justice, security and protection

In Nigeria, the Child Rights Act (CRA 2003) provides for a Child Justice Administration to address the Juvenile Justice Administration. The CRA does not allow any child to be subjected to the criminal justice process. It provides that due process should be followed when a child is found culpable at all stages of investigation, adjudication and disposition of any case.

Also, the CRA prohibits the use of capital punishment, use of imprisonment and use of corporal punishment for children less than 18 years of age. These are all novel provisions, as no such prohibition existed under previous legislation on children. For example, the Children and Young Persons Act (CYPA 1943) was passed by the British Colonial Government as an Ordinance applicable throughout the Protectorate of Nigeria.¹² Therefore, child justice encompasses access to justice for children either to respond to their need for care, custody or protection or to provide a just and timely remedy for violations of their rights¹³. “Children are directly represented by state government agencies or attorneys may appear in court on behalf of the agency dealing in abuse, neglect and or treatment option cases. Government agencies typically have large legal staff and a decentralized system of field offices”.¹⁴ A case in point is the National Human Rights Commission’s project on “access to justice for children in conflict with the law” and the daily redress mechanisms of interventing in life survival and development of children, keeping families together, respect for children’s views and their rights, etc.

The child’s security is the hallmark of the child’s safety involving a circle of security and practice to see things in a different way concerning children simply for their status. What makes a difference after 60 years of research by ‘Circle of Security International’ revealed that the more secure children are, the more they are able to: enjoy more happiness with their parents, feel less anger at their parents, turn to their parents for help when in trouble, solve

¹¹ UN, ‘Convention on the Rights of the Child,’ available online at <<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>> accessed on 10 September 2022

¹² ‘Children and Young Persons Act,’ available at <<https://library.net/article/children-young-persons-act-overview-nigerian-child-justice.zkp30kpk>> accessed on 2 November, 2022

¹³ Ministry for Constitutional and Legal Affairs, Tanzania, ‘Child justice - a five year strategy for progressive reform’ available online at <<https://cdn.penalreform.org/wp-content/uploads/2013/07/Tanzania-National-Child-Justice-Reform-Strategy-2013-17.pdf>> accessed on 26 May 2022.

¹⁴ ‘Children’s Rights Law: A Career Guide’ available online at <<https://hls.harvard.edu/content/uploads/2008/07/guide-children-rights.pdf>> accessed on 20 July 2022

problems on their own, get along better with friends, have lasting friendships, solve problems with friends, have better relationships with brothers and sisters, have higher self-esteem, know that most problems will have an answer, trust that good things will come their way, trust the people they love and know how to be kind to those around them.¹⁵

The child's protection is the all-around identification of and response to the child's protection issues and the process for the continued support of the child.¹⁶ Where this is guaranteed for the child, safety is assured, security is not negotiable and protection is certain for the child.

Some of the Complaints Received by the Commission on Rights of the Child are as Follow:

C/BAU/2021/056

The Commission received a complaint dated 15th February, 2021 from D of Tafawa Balewa LGA of Bauchi State who alleged that her husband abandoned his fatherly responsibilities towards their son.

C/BAU/2021/058-059

The Commission received a complaint dated 16th February, 2021 from D of Adamu Jumba Housing Estate, Bauchi State. She alleged that Y, her ex-husband, who resides at FadamaMada, Bauchi State, denied her access to their four-year-old child.

C/BAU/2021/100-102

The Commission received a complaint dated 18th February, 2021 from D who resides behind Railway Roundabout, Bauchi State. She alleged that Y, her husband, denied her access to their children.

C/BAU/2021/112-115

The Commission received a complaint dated 23rd February, 2021 from D of Bakin Kura Street, Bauchi State. D alleged that Y, her husband, denied her custody of their three children.

¹⁵ Circle of Security International, '*Circle of Security Parenting*' (Caregiver Workbook 2020) available online at <<https://www.circleofsecurityinternational.com/wp-content/uploads/COSPCaregiverWorkbook.pdf>> accessed on 30 April 2022

¹⁶ 'Policy Information, Child Protection Procedures in Schools,' available online at <<https://www.gob.ie/en/policy-information/d7be05-child-protection/>> accessed on 30 April 2022

C/BAU/2021/144-145

The Commission received a complaint dated 5th March, 2021 from D of Bakin Kura, Bauchi state alleging that Y, her ex-husband, abandoned his parental responsibilities towards their child.

C/BAU/2021/215-219

The Commission received a complaint dated 8th April, 2021 from D of YelwanTudu, Bauchi LGA, Bauchi State alleging domestic violence and abandonment of parental responsibilities of their child against Y, her husband.

C/BAU/2021/246

The Commission received a complaint dated 17th April 2021 from DY alleging the forceful marriage of a female minor to Y, at Gumau Magama, Bauchi State on 2nd April, 2021.

C/BAU/2021/253-254

The Commission received a complaint dated 27th April, 2021 from D of Yelwan Kagadam, Bauchi LGA, Bauchi State. D alleged domestic violence and abandonment of parental responsibilities for their child against Y, her husband.

C/BAU/2021/304-306

The Commission received a complaint dated 11th May, 2021 from Y of Unguwar Kofar Aumi, Bauchi State alleging domestic violence and denial of access to his two children against his wife.

C/BAU/2021/314

The Commission received a complaint dated 18th May, 2021 from D of Bayara, Bauchi LGA of Bauchi State alleging denial of right to access to child and abandonment of parental responsibilities by Y, her husband.

C/BAU/2021/315-320

The Commission received a complaint dated 18th May, 2021 from D of Opposite Alice Hamdala Hotel, Bauchi State alleging domestic violence and abandonment of parental responsibilities of five children by Y, her husband.

C/BAU/2021/324-325

The Commission received a complaint dated 24th May, 2021 from D of Nahuta, Tafawa Balewa LGA, Bauchi State alleging abandonment of parental responsibilities against Y, the father of her son who lives in Mangu, Plateau State.

C/BAU/2021/328-337

The Commission received a complaint dated 24th May, 2021 from D of Bubunu, Tafawa Balewa LGA, Bauchi State alleging abandonment of parental responsibilities by Y, her husband.

C/BAU/2021/342-344

The Commission received a complaint dated 25th May, 2021 from D of Sabon Layi, Kano Road, Bauchi LGA, Bauchi State alleging denial of access to children and abandonment of parental responsibilities by Y, her husband.

C/BAU/2021/347-349

The Commission received a complaint dated 1st May, 2021 from D of Near Railway Kwarters, New GRA Bauchi State alleging domestic violence and abandonment of parental responsibilities of her two children by Y, her husband.

C/BAU/2021/352-355

The Commission received a complaint dated 3rd June, 2021 from D of Yelwan Kakadama, Bauchi LGA, Bauchi State alleging that since 2014 Y, her husband, abandoned his family responsibilities.

C/BAU/2021/357-359

The Commission received a complaint dated 4th June, 2021 from D of Rafin Zurfi, Bauchi LGA of Bauchi State alleging domestic violence and abandonment of parental responsibilities towards their children by Y, her husband.

C/BAU/2021/367-370

The Commission received a complaint dated 11th June, 2021 from D of Yelwa, Bauchi LGA, Bauchi State alleging abandonment of parental responsibilities of their children by Y, her husband.

C/BAU/2021/377-381

The Commission received a complaint dated 16th June, 2021 from DY of Bauchi LGA, Bauchi State on behalf of D alleging abandonment of parental responsibilities of their four children by Y, her husband who lives in Suleja, Niger State.

C/BAU/2021/384-385

The Commission received a complaint dated 17th June, 2021 from D of Miri, Bauchi State alleging rape and abandonment of parental responsibilities against one Y.

C/BAU/2021/399-402

The Commission received a complaint dated 28th June, 2021 from D of Yelwa, Bauchi LGA, Bauchi State alleging denial of access to their children by Y, her husband.

C/BAU/2021/420-423

The Commission received a complaint dated 8th July, 2021 from D of Gundun Hausawa, Bauchi LGA, Bauchi State against Y, her husband, alleging denial of access to their three children.

C/BAU/2021/428-429

The Commission received a complaint dated 14th July, 2021 from D of Tafawa Balewa LGA of Bauchi State alleging abandonment of parental responsibilities by Y, her ex-husband.

C/BAU/2021/444-447

The Commission received a complaint dated 16th July, 2021 from Y, of Giri, University of Abuja against D, his wife, alleging denial of access to their three children who live in Bauchi.

C/BAU/2021/450-452

The Commission received a complaint dated 26th July, 2021 from D of Tafawa Balewa LGA of Bauchi State alleging denial of access to their children by Y, her husband.

C/BAU/2021/456-464

The Commission received a complaint dated 28th July, 2021 from D of Bauchi LGA Bauchi State alleging that her husband abandoned his parental responsibilities towards their children.

C/BAU/2021/511-512

The Commission received a complaint dated 23rd August, 2021 from D of Yelwan Kagadama, Bauchi State against Y, her husband, alleging denial of access to their child.

NHRC/TSO/C/2021/009-011

The Commission received a complaint dated 2nd February, 2021 from D who alleged her husband Y, a retired soldier based in Mararaba Customs Apawa in Jalingo LGA, Taraba State infected her with HIB and sent her and their two children out of their matrimonial home in January, 2020.

NHRC/C/2021/YSO/DT/079

The Commission received a complaint dated 2nd August, 2021 from D of Pawari Ward, Damaturu, Taraba State who alleged that Y, her ex-husband, emotionally abused her and failed to take up his parental responsibilities towards their child.

NHRC/C/2021/YSO/DT/094

The Commission received a complaint dated 24th August, 2021 from D of YBC Area, Gujba Road Damaturu, Yobe State. D stated that she has been married to Y, her husband, for nine years and they have four children. D alleged that Y has failed to live up to his family responsibilities.

NHRC/C/2021/YSO/DT/093

The Commission received a complaint dated 24th August, 2021 from DY of Abari Ward Gujba Road Damaturu, Yobe State, alleging that Y, his son-in-law, refused to provide upkeep for D, his daughter, over a misunderstanding that ensued between them.

NHRC/C/2021/YSO/DT/075

The Commission received a complaint dated 7th July, 2021 from D of Nayinawa Tsalake Damaturu, Yobe State, who alleged that Y, her husband, beats her over the slightest provocation and has failed to provide for the needs of their only child.

NHRC/YSO/DT/C/2021/017

The Commission received a complaint from D, of Layi Fata, Bindigari, Damaturu, Yobe State dated 28th January, 2022 who stated that she was married to Y, her husband for over two years and they have a child. D alleged that Y is neglecting his family responsibilities.

C/2021/18/ZM

The Commission received a complaint dated 26th July, 2021 from D of Barakallahu, Gusau, Zamfara State alleging that Y, her husband, has refused to fulfil his responsibilities towards their two children.

ESO/2021/43

The Commission received a complaint dated 5th February, 2021 from D who resides at Idaw Riber, Enugu State, alleging that Y, her husband, has refused to fulfil his responsibilities towards their child.

ESO/2021/246

The Commission received a complaint dated 18th August, 2021 from Y who resides at Independence Layout, Enugu State, alleging that D, his wife has denied him access to their child.

C/2021/78/EK

The Commission received a complaint dated 14th October, 2021 from D who resides at Odo-Ado, Ado Ekiti, Ekiti State, alleging that Y, her husband has failed in fulfilling his responsibilities towards their children.

C/2021/80/EK

The Commission received a complaint dated 18th October, 2021 from D who resides at Olosunde Street, Iyin-Ekiti, Ekiti State, alleging that her husband failed to fulfil his responsibilities towards their children.

C/2021/87/EK

The Commission received a complaint dated 15th November, 2021 from D who resides at Owode Kuarter Basiri Ekiti, Ekiti State and accused Y, the father of her child, of battery and failure to fulfil his responsibilities towards their child.

C/2021/88/EK

The Commission received a complaint dated 18th November, 2021 from D who resides at L.G.C Basiri Ado Ekiti, Ekiti State, accusing Y, her husband, of battery and failure to fulfil his responsibilities towards their children.

NHRC/ABS/2021/098

The Commission received a complaint dated 30th June, 2021 from D, an 11-year-old girl alleging that her father, who is estranged from their mother, abducted her and her younger sister from Asaba under the pretext of buying things for them at a nearby supermarket. He fled to Aba in Abia State with them where they were abandoned with his elder sister for three months. D further alleged that within this period, the two girls were subjected to cruel, inhuman and degrading treatment including daily starvation, torture and sexual abuse by their two male cousins.

NHRC/ABS/2021/126

The Commission received a complaint dated 26th August, 2021 from Y alleging that since he separated from his wife in June 2015 at Osioma Ngwa, Abia State, because of a lack of trust and infidelity, his wife has refused to release necessary documents concerning the children which will enable him to process their visa to study abroad.

C/2021/004/ADSO

The Commission received a complaint dated 25th January, 2021 from D against her boyfriend who resides at Mbamba in Yola town, Adamawa State alleging abuse of the right to survival and development of their son since July, 2020 by Y. D alleged that Y abandoned their child and all effort made for him take care of his responsibility proved abortive.

C/2021/021/ADSO

The Commission received a complaint dated 22nd February, 2021 from DY who resides at Michika LGA, Adamawa State alleging that his sister lost her husband on 11th July, 2019

and her eldest step son living in Bazza, Michika LGA took control of all her late husband's belongings and denied her any share thereby jeopardizing survival and development of her two children. DY further alleged that all efforts by the district head of Bazza to resolve the case proved abortive.

C/2021/114/ADSO

The Commission received a complaint dated 31st August, 2021 from D residing at Girei LGA, Adamawa State. She alleged that her husband abandoned his responsibilities towards her and their eight children and has prevented her from engaging in any business since 2019.

C/2021/009/ADSO

The Commission received a complaint dated 1st February, 2021 from D who resides at Anguwan Magaji, Yola South alleging that her daughter's husband has since January 2021, neglected his wife and their children and also refused to pay for the hospital bill of their three months old baby who has been in a critical health condition.

C/2021/068/ADSO

The Commission received a complaint dated 17th May, 2021 from D of Song LGA, Adamawa State. D alleged that her ex-husband, who resides at Belwa LGA, is denying her access to their child since their separation on 26th April, 2021, when he took their two-year-old daughter away from her.

C/2021/018/ADSO

The Commission received a complaint dated 11th February, 2021 from D residing at Jimeta Yola, Adamawa State, alleging that her ex-husband living at Yola South LGA abandoned their 15-month-old daughter in December 2019.

C/2021/039/ADSO

The Commission received a complaint dated 29th March, 2021 from D residing at Yola North LGA, Adamawa State. She alleged that her husband working at Dougirei abandoned his responsibilities towards her and their 3 children in 2019. D further claimed that on 13th March, 2021 she went to his residence to seek for his assistance because their 4-year-old son has been ill due to sickle cell anaemia and Y physically molested her and refused to provide any financial assistance for the child.

C/2021/057/ADSO

The Commission received a complaint dated 27th April, 2021 from D residing at Yola North, Adamawa State, alleging that her ex-husband had refused to pay the medical bills of their 2-year-old daughter who has been critically ill and admitted to a specialist hospital.

C/2021/061/ADSO

The Commission received a complaint dated 11th May, 2021 from D residing at Fufore LGA, Adamawa State. D alleged that her husband and father of her 3 children who resides at Jimeta Yola, has abandoned his responsibilities to her and their children. She further claimed that she has been living in her father's house in Mararaba Shigari since October 2020 and that all efforts by family members to make her husband to provide for his family and take them to live with him at his residence proved abortive.

C/2021/071/ADSO

The Commission received a complaint dated 4th June, 2021 from D of Yola South LGA, Adamawa State. D alleged that her ex-husband abandoned his responsibility to her and their children since they got divorced on 26th October, 2014. She further alleged that the children were badly maltreated by their father's new wife and they had to leave the house on 3rd April, 2021 to come to live with her.

C/2021/083/ADSO

The Commission received a complaint dated 1st July, 2021 from D who lives in Jimeta Yola, Adamawa State, stating that she has a 1-year-old son with her ex-husband, whom she left while she was 7 months pregnant. D alleged that he has since then abandoned his responsibilities towards them.

C/2021/087/ADSO

The Commission received a complaint dated 1st July, 2021 from D who resides at Damaturu, Yobe State alleging that her ex-husband refused to take up his responsibility of providing for their 4-year-old daughter, since January, 2021

C/2021/020/ADSO

The Commission received a complaint dated 12th February, 2021 from D who lives in Yola North, Adamawa State alleging that on 11th February, 2021, a 7-year-old girl was defiled behind Forte filling station by a 40-year-old man.

C/2021/037/AKS

The Commission received a complaint dated 18th February, 2021, from Y against his wife. Y alleged that his wife packed out of their matrimonial home on 1st January, 2021, without his consent, with their two children. He further alleged that she has continued to deny him access to their two children since she left and he is worried about the welfare of his children.

C/2021/IMS/3/W&C

The Commission received a complaint dated 13th January, 2021 from D alleging that a man defiled her 4-year-old daughter in their house in Imo State.

C/2021/IMS/41/ESCR

The Commission received a complaint dated 23rd February, 2021 from D alleging that the wife of her ex-husband kicked her children out of their father's house in Ngor-Okpala L.G.A, Imo State, after his burial in July, 2021.

C/2021/074/KD

The Commission received a complaint from D dated 24th June, 2021, against her ex-husband, Y. D alleged that Y abandoned his responsibilities to their son since divorcing her in 2014. She further alleged that he relocated to Kwara State leaving her in Kaduna State to take up the responsibility of the child alone.

KTSO/C/2021/019

The Commission received a complaint dated 15th February, 2021 from D who alleged that her ex-husband took away her 7-year-old son for over 2 years with his whereabouts unknown to her. That after several attempts to see her child she was informed that he had died.

C/2021/002/NHRC/KGSO

The Commission received a complaint from D on 17th February 2021, stating that she was married to Y and they have four children, one of whom is an adult already. D alleged that Y

has been negligent of his responsibilities towards the upkeep of their children, which created undue hardship for her and the children.

C/2021/047/KD

The Commission received a complaint from D dated 29th April, 2021 against Y, her ex-husband. D alleged abandonment and lack of care by Y who abandoned their 2 children since divorcing her in December 2020 while she was pregnant with the 3rd child. D further alleged that she has been solely responsible for their upkeep.

C/2021/054/KD

The Commission received a complaint from D dated 3rd August, 2021 against Y, her ex-husband. D alleged abandonment and lack of care from Y who has failed in his parental responsibilities towards their daughter for the last 8 years.

C/2021/104/KD

The Commission received a complaint from D dated 16th August, 2021 alleging abandonment and lack of care by her husband who asked her to abort her 3rd pregnancy because he didn't want any more children. D alleged that her refusal to abort the baby prompted him to ask her to leave his house.

GSO/C/2021/064

The Commission received a complaint dated 9th April, 2021 from D, against her husband with whom she has four children. D claimed that her husband abandoned her and the children for three years without any assistance and this has caused her undue hardship. D alleged that after three years, the husband came and took all the children from her and has since denied her access to them.

GSO/C/2021/067

The Commission received a complaint dated 12th April, 2021 from D alleging neglect and abandonment of her and their children by her husband. D further stated that due to the husband's lack of parental care, the burden of taking care of the children has been enormous on her.

GSO/C/2021/068

The Commission received a complaint dated 7th April, 2021 from D alleging that Y impregnated her and abandoned her for nine months. She further stated that after the birth of

the child, Y denied the paternity of the child.

GSO/C/2021/071

The Commission received a complaint dated 14th April, 2021 from D alleging the refusal of her husband to take up his responsibilities towards his family. D claimed that her husband who is a Police officer working in Abuja abandoned her with their two children in Gombe State without discharging his responsibilities as a husband to her and as a father to their children.

GSO/C/2021/074

The Commission received a complaint dated 14th April, 2021 from D alleging that her ed-husband who forcefully took custody of their two-year-old son ober sid months ago, has prebented her from communicating with her son and has denied her access to him.

GSO/C/2021/076

The Commission received a complaint dated 19th April, 2022 from D alleging a lack of parental care against her ed-husband. D further claimed that her ed-husband diborced her while she was fibe months pregnant and refused to take up responsibility for the twins she gabe birth to.

GSO/C/2021/086

The Commission received a complaint dated 23rd April, 2021 from D alleging the abandonment of their four-month-old son by her ed-husband. D claimed that her ed-husband diborced her and left her with the responsibilities of their baby which she said is oberwhelming.

GSO/C/2021/090

The Commission received a complaint dated 28th April, 2021 from DY on behalf of D. DY claimed that the respondent diborced D and abdicated his parental responsibilities towards their one-year-old child.

GSO/C/2021/210

The Commission received a complaint dated 2nd August, 2021 from D alleging that her husband diborced her and abandoned her with their fibe children. She further claimed that

she is finding it very difficult to cope with the responsibilities of taking care of their children as the father of her children, who is now her ex-husband, has refused to take up his responsibilities towards them.

GSO/C/2021/226

The Commission received a complaint dated 13th August, 2021 from D against her ex-husband alleging parental neglect. D stated that she has two children with her ex-husband and he has abandoned the responsibilities of their children with her. She further claimed that her ex-husband borrowed some money from her and refused to pay it back.

GSO/C/2021/211

The Commission received a complaint dated 2nd August, 2021 from Y stating that he separated from his wife and requested the custody of their children so that the children can be adequately taken care of. Y alleged that his ex-wife denied him custody of their children and she is incapable of taking care of them.

GSO/C/2021/231

The Commission received a complaint dated 18th August, 2021 from Y stating that he has two children with his wife, from whom he is now separated. Y alleged that his ex-wife has denied him access to his two children and has taken the children to an unknown destination.

GSO/C/2021/232

The Commission received a complaint dated 19th August, 2021 from D alleging that her husband abandoned her with their two children. D further claimed that her husband refused to divorce her and neglected his parental responsibilities toward their children.

GSO/C/2021/241

The Commission received a complaint dated 24th August, 2021 from D stating that she has two children with her ex-husband. D claimed that her ex-husband has been maltreating their first child who has been living with him and he is presently requesting custody of the second child from her.

GSO/C/2021/248

The Commission received a complaint dated 26th August, 2021 from D alleging she has three

children with her husband and he has refused to take care of the children's welfare.

GSO/C/2021/027

The Commission received a complaint dated 11th February, 2021 from D alleging that the overwhelming responsibilities of caring for their children without the support of their father have caused her untold hardship and has resulted in some of the children dropping out of school.

GSO/C/2021/028

The Commission received a complaint dated 11th February, 2021 from D alleging that Y impregnated her, denied the pregnancy and abandoned her.

GSO/C/2021/029

The Commission received a complaint dated 12th February, 2021 from DD alleging that her daughter got pregnant by the respondent and she gave birth to a baby boy. D further stated that the respondent abandoned the baby and the mother with her and for the past three months and has refused to pick up their calls and neglected his responsibilities towards the mother and the child.

GSO/C/2021/035

The Commission received a complaint dated 22nd February, 2021 from D alleging neglect of Y's responsibilities towards his children.

GSO/C/2021/004

The Commission received a complaint dated 4th January, 2021 from D alleging that her husband accused her of infidelity and stopped paying the children's school fees and neglected his other parental responsibilities toward them.

GSO/C/2021/038

The Commission received a complaint dated 23rd February, 2021 from Y accusing his ed-wife of infidelity and alleging that she has denied him access and custody of their children.

GSO/C/2021/009

The Commission received a complaint dated 10th January, 2021 from D alleging that her husband divorced her while she was five months pregnant and after delivery, he abandoned

her and the baby and she is finding it difficult to cater for the needs of the child.

GSO/C/2021/014

The Commission received a complaint dated 14th January, 2021 from D alleging that her husband divorced her and left her with their three children and he has failed to cater to their wellbeing.

GSO/C/2021/016

The Commission received a complaint dated 18th January, 2021 from Y alleging that his ex-wife denied him custody of their seventeen-month-old baby.

GSO/C/2021/018

The Commission received a complaint dated 20th January, 2021 from D alleging that her husband has denied their children education and neglected his responsibilities as a father.

GSO/C/2021/168

The Commission received a complaint dated 24th June, 2021 from D alleging that her husband divorced her while she was four months pregnant and now the child is sixteen years old. D further alleged that she had shouldered the responsibilities of the child alone up to the age of sixteen years and the father has never contributed towards his upbringing.

GSO/C/2021/152

The Commission received a complaint dated 9th June, 2021 from D alleging that her husband divorced her while she was two months pregnant and failed to pay up the debt she incurred during antenatal. D further claimed that her ex-husband has further failed to take care of the pregnancy.

GSO/C/2021/173

The Commission received a complaint dated 28th June, 2021 from DY alleging that Y has neglected his fatherly responsibilities towards his children. DY further claimed that the children are engaging in hard labour and are currently stranded without any means of sustenance.

GSO/C/2021/162

The Commission received a complaint dated 16th June, 2021 from DY alleging that the respondent impregnated a sixteen-year-old girl and denied the pregnancy.

GSO/C/2021/155

The Commission received a complaint dated 9th June, 2021 from D alleging that her husband divorced her in April 2019 while she was two months pregnant and the child is now eighteen years old. D further claimed that the father failed to cater for the child.

GSO/C/2021/157

The Commission received a complaint dated 16th June, 2021 from D alleging that her husband divorced her while she was three months pregnant and has refused to cater for the child.

GSO/C/2021/044

The Commission received a complaint dated 9th March, 2021 from D alleging that her husband divorced her with six children and left three with her while he took three with him. D further alleged that her ex-husband has refused to take responsibility of the three children staying with her.

GSO/C/2021/040

The Commission received a complaint dated 1st March, 2021 from D alleging that her husband divorced her and left her with their six-month-old child. D also claimed that her ex-husband has abandoned and refused to take care of the child's well-being for the past six years.

GSO/C/2021/176

The Commission received a complaint dated 30th June, 2021 from D alleging that her husband sent her out of his house while she was six months pregnant and refused to be part of the unborn child's wellbeing.

GSO/C/2021/039

The Commission received a complaint dated 1st March, 2021 from D alleging that her husband maltreats her and neglects his responsibilities towards her and their only child.

GSO/C/2021/054

The Commission received a complaint dated 25th March, 2021 from D alleging that her husband divorced her and left her with their three children. D further alleged that her ex-husband has deserted his responsibilities and refused to pay the children's school fees and upkeep.

GSO/C/2021/055

The Commission received a complaint dated 26th March, 2021 from D alleging that her husband divorced her and left her with their four children. D also claimed that her ex-husband does not provide for their children and he constantly comes around her business area and keeps intimidating and harassing her.

GSO/C/2021/056

The Commission received a complaint dated 31st March, 2021 from D alleging that the respondent impregnated her and has refused to take responsibility.

GSO/C/2021/057

The Commission received a complaint dated 31st March, 2021 from D alleging that the respondent took her foster daughter from Gombe State to Kano State without her consent.

GSO/C/2021/100

The Commission received a complaint dated 6th May, 2021 from D alleging that her husband divorced her while pregnant and it was agreed through his guardians, that the sum of two thousand Naira (2,000.00) only will be given by him for upkeep for the mother and the unborn child monthly. D further alleged that the father of her unborn child only paid the upkeep twice and subsequently stopped paying and all efforts to ensure that he takes responsibility failed.

GSO/C/2021/107

The Commission received a complaint dated 18th May, 2021 from Y alleging that his ex-wife threatens him whenever he goes to visit his fourteen-year-old daughter who stays with her. Y further alleged that on 17th May, 2021 when he went to visit his daughter in her house, she promised to send thugs to chase him out if he ever dared visit his daughter again.

GSO/C/2021/115

The Commission received a complaint dated 24th May, 2021 from D alleging that she got married to her husband five years ago and they have two children. D further alleged that the inhuman treatment and the inability of her husband to take up his responsibilities towards her and the children made her go back to her father's house.

ANS/SEZ/2021/019

The Commission received a complaint dated 27th January, 2021 from D alleging that Y abducted their 2 kids from her custody at her mother's residence at Obeagu Nneogidi Billage, Agulu, Anambra state on the 20th of September, 2020.

ANS/SEZ/2021/010

The Commission received a complaint dated 21st January, 2021 from D against Y, her husband alleging that he has refused to provide for their three daughters on the basis that no female child inherits any property of their deceased parents especially the natives of Uruakwu billage, Mgbakwu, Awka North L.G.A, Anambra State, and she has been left with the full responsibility of their upkeep from infancy to their current teenage stage. D alleged that Y habitually tells them that girls are not children.

ANS/SEZ/2021/073

The Commission received a complaint dated 29th March, 2021 from DY against Y his sister's husband, alleging that Y abandoned D, who is physically challenged and their three (3) children at Uli, Ihiala L.G.A of Anambra State without making any provision for their upkeep since 2020.

NHRC/NGSO/2021/002

The Commission received a complaint dated 4th January, 2021 from D against Y, her husband alleging family abandonment and domestic violence. D stated that Y abandoned his responsibility since 5th December 2019 to her and their three (3) children at their residence Tunga Market Road, Minna, Niger State. D further alleged that Y beats her up with little or no provocation while she lived with him at Ganaja Billage, Lokoja, Kogi state between 2016 and 2019.

NHRC/NGSO/2021/015

The Commission received a complaint dated 27th January, 2021 from D against Y, her husband of 11 years, alleging domestic violence and negligence of fatherly responsibility. D stated that they have two children and Y has consistently defaulted in catering for them since 2015. D further alleged Y beat her at the slightest provocation when they lived together at Chanchaga, Minna, Niger state.

NHRC/NGSO/2021/016

The Commission received a complaint dated 1st February, 2021 from D against Y, her husband alleging domestic violence. D stated that they've been married for 7 years and have 3 children. D alleged serious incidents of physical violence and negligence of fatherly responsibility since 2019 against her husband with whom she lives at Barkin Sale, Minna, Niger State.

NHRC/NGSO/2021/025

The Commission received a complaint dated 2nd February, 2021 from D against Y, her husband, alleging family abandonment and physical violence. D stated that they have two (2) children from their 7-year marriage and live in Fadikpe, Minna, Niger state. D further alleged that since 2018, Y has neglected his responsibilities towards his family.

NHRC/NGSO/2021/038

The Commission received a complaint dated 15th March, 2019 from D against Y, her husband, alleging that Y, with whom she lives in Minna, Niger state and married for over 20 years, had since 2019 not been living up to his responsibilities to the family and has failed to provide for the financial needs of his family. D alleged that Y had failed to provide for the feeding of the family and even their shelter and they were about to get evicted from the house they are currently occupying at Bosso, Minna, Niger State because they had defaulted in paying their rent.

NHRC/NGSO/2021/059

The Commission received a complaint dated 1st June, 2021 from D against Y, her husband, alleging abandonment of family and domestic violence. D stated that she is married to Y and they have two (2) children. D further stated that Y, with whom she lives with at Talba Estate, Kpakungu, Minna, Niger State, is a lecturer at the Federal University of Technology Minna. D alleged that Y had been negligent in his fatherly responsibility since the delivery of their

twin children in 2019 and whenever she complains, he beats her up.

NHRC/NGSO/2021/061

The Commission received a complaint dated 4th June, 2021 from D against Y, her husband, alleging abandonment of family and domestic violence. D who lives in Kpakungu, Minna, Niger state with Y, stated that she has been married to Y for five (5) years and they have a child and she is also pregnant. D alleged that Y seized her phone on 7th May, 2021 when they had a little argument at their residence in Kpakungu, Minna and in an attempt to question Y's action, he beat her and since then, stopped providing for the family, particularly as it concerns the unborn child.

ANS/SEZ/2021/149

The Commission received a complaint dated 27th August, 2021 from Y against his wife, D. Y alleged that D disrespects him and has absconded from their home with his son and properties without his consent. Y further alleged that D has vehemently denied him access to see his son.

C/2021/7332/PSO

The Commission received a complaint on 4th October, 2021 from DY who stays at Anguwan Rimi Jos, Plateau State. DY wrote on behalf of his daughter, D, who was married to the respondent for about 3months. DY alleged that the respondent married D and divorced her while she was 2 months pregnant and does not provide for antenatal care. DY further alleged that when the respondent divorced his daughter, he promised to be giving her N6, 000 every month for her upkeep but has failed to do so.

NHRC/ABS/2021/098

The Commission received a complaint dated 30th June, 2021 from D, an 11-year-old girl alleging, that her father who is estranged from the mother abducted her and her younger sister from Asaba under the pretext of buying goodies for them at a nearby supermarket and fled to Aba where they were abandoned with his elder sister for three months. Within this time, the 2 girls were subjected to cruel, inhuman and degrading treatment including daily starvation, torture, sexual abuse, etc by their two male cousins.

ANS/SEZ/2021/085

The Commission received a complaint dated 28th April, 2021 from DY alleging that a child of 13 years reported her custodian to her school authorities that she does not want to relocate with her custodian whom she said wants to leave Awka to her new base at Port Harcourt. DY further alleged that the custodian has refused to return the child to her biological mother.

ANS/SEZ/2021/094

The Commission received a complaint dated 11th May, 2021 from Y against D, his wife. Y alleged that D relocated with their children around October 2020 to Onitsha and since then D has denied him access to their three children.

ANS/SEZ/2021/096

The Commission received a complaint dated 14th May, 2021 from D against Y. D stated that Y came to visit his son on the 9th of May, 2021 at her residence at Ezinifite, Okpuno, Awka after 4 years of abandonment. She alleged that Y took the child in his car and left with him to an undisclosed location and repeated efforts to contact him through the telephone have been futile.

ANS/SEZ/2021/117

The Commission received a complaint dated 15th June, 2021 from Y against D, his wife. Y alleged that following D's infidelity, they separated and she returned to her hometown Isuofia, Aguata L.G.A, Anambra State with their 3 children. In April, 2021 his son called and informed him that they were ill, however when he tried to see them, D and her family denied him access to the children and all efforts to settle their marital differences proved abortive.

ANS/SEZ/2021/150

The Commission received a complaint dated 27th August, 2021 from Y against D, his mother-in-law. Y alleged that D has denied him access to his son since the death of his wife during child birth. He alleged that prior to his wife's death, they were not on good terms and that D is accusing him of having a hand in his wife's death.

ANS/SEZ/2021/032

The Commission received a complaint dated 1st March, 2021 from D against Y, the father of her child. D alleged that Y abandoned their son since February 2021 when she left their home at Ifite-Awka, Anambra State.

ANS/SEZ/2021/079

The Commission received a complaint dated 20th April, 2021 from D against Y, the father of her child. D alleged that Y physically assaults her and because of that she left their matrimonial home. She further alleged that since then, Y has refused to take up responsibility for the child.

ANS/SEZ/2021/087

The Commission received a complaint on 30th April, 2021 from D against Y, his landlord. D alleged that Y constantly beats his children when they refuse to go on errands for him. D further alleged that when he confronted Y on the issue, Y ordered him to vacate the property even though his rent has not expired.

ANS/SEZ/2021/090

The Commission received a complaint dated 5th May, 2021 from D against Y, his brother-in-law at Isiekwulu Billage, Ukpo, Dunukofia L.G.A of Anambra State. D alleged that Y abandoned his late sister's five (5) children. D further alleged that the children are HIV positive and not receiving treatment since the demise of his sister in January, 2020. D also alleged that he received information that three of the children are missing and all efforts to make Y take up responsibility for the children have been unsuccessful.

ANS/SEZ/2021/092

The Commission received a complaint dated 7th May, 2021 from D against Y, the DPO of a police station. D alleged that in 2016, she was compromised into having a sexual relationship under the guise of his promise to assist her brother whose case was under his jurisdiction and consequently impregnated her. D further alleged that Y eventually paid her bride price and she subsequently got pregnant again though Y denied paternity. D stated that Y has since then abandoned her and the two children.

ANS/SEZ/2021/109

The Commission received a complaint dated 4th June, 2021 from D against Y, the father of her child. D alleged that Y physically assaults her and does not take care of her and her 3-year-old child. D left the house situated at Umudiani-Awka in February 2021 and since then Y has abandoned his responsibilities towards them.

ANS/SEZ/2021/152

The Commission received a complaint dated 31st August, 2021 from D, a student of Chukwuemeka Odumegwu Ojukwu University, Igbariam, Anambra state against Y her fiancé. D alleged that Y has failed to come and perform her marital rites as promised after she got pregnant for him. D further alleged that she approached him on the 17th of August, 2021 to support her financially for ante-natal visits and purchase of baby items but he refused and has since vacated his former residence and she cannot locate his current address.

NHRC/NGSO/2021/003

The Commission received a complaint dated 12th January, 2021 from Y, a 19-year-old boy against YY, his father, alleging abandonment and denial of motherly care since the year 2002. Y alleged that he has been living with YY at Tunga, Minna, Niger State since he was four (4) months old after he had sent Y's mother away from the house. D further alleged that till date, Y has continued to deny him knowledge of who his mother is and denied him access to her.

NHRC/NGSO/2021/004

The Commission received a complaint dated 12th January, 2021 from D alleging family abandonment by Y. D alleged that she has a son (8 years old) and that Y, with whom she lives with at Beni, Munya LGA of Niger state, had since their marriage in March 2012 and subsequent birth of their son in 2013, abandoned his responsibility to her and his son leaving the entire burden on her.

NHRC/NGSO/2021/005

The Commission received a complaint dated 13th January, 2021 from D alleging family abandonment against Y. D further alleged that she has a son for Y and Y had since the year 2019 abandoned her and her son at Barkin Sale Minna, Niger state, leaving the entire responsibility of the child's welfare to her and the house rent has been due for two years. D

further alleged that Y had married another woman and is living with her in Abuja even though they are not divorced.

C/2021/193/KD

The Commission received a complaint on 14th December, 2021 from D who alleged denial of responsibility and lack of care for their children by her ex-husband after their divorce.

C/2021/163/KD

The Commission received a complaint on 5th November, 2021 from D who alleged denial of access to children and lack of parental care against her husband. She further alleged that the three children were in her custody before he took them away from her.

C/2021/106/KD

The Commission received a complaint on 18th August, 2021 from D who alleged Y her ex-husband of abandoning their children, lack of care and threat to life by Y since their separation.

C/2021/098/KD

The Commission received a complaint on 9th August, 2021 from D who alleged lack of care and abandonment of their three children against her husband.

C/2021/114/KD

The Commission received a complaint on 28th August, 2021 from D who alleged inhuman and degrading treatment, lack of care and emotional abuse against her husband. D further alleged that he had totally abandoned her and their children.

C/2021/602/KN

The Commission received a complaint dated 6th August, 2021 from D who alleged batter and neglect of his responsibilities on their children.

C/2021/604/KN

The Commission received a complaint dated 9th August, 2021 from D who alleged that her parents fight always because their father abandoned his responsibilities towards his family.

C/2021/617/KN

The Commission received a complaint dated 11th August, 2021 from D who alleged that her husband refused to fulfil his duty as a husband as well as a father. D further alleged that her husband abandoned his responsibilities towards their four children.

C/2021/637/KN

The Commission received a complaint dated 18th August, 2021 from D who alleged that her husband abandoned her and their children in Katsina State after his transfer to Kano State.

C/2021/746/KN

The Commission received a complaint dated 27th September, 2021 from D who alleged that her husband abandoned her and their daughter with her family for a period of seven months without providing for their upkeep.

C/2021/762/KN

The Commission received a complaint dated 4th October, 2021 from D of Kofar Dawanau, Dala LGA, Kano State. She alleged that her husband has abandoned all his responsibilities towards his family and has left the house completely. As at the time of the report, the landlord of their house had issued them a quit notice.

C/2021/824/KN

The Commission received a complaint dated 2nd November, 2021 from D. She alleged that her husband abandoned his responsibilities towards their three children.

C/2021/709/KN

The Commission received a complaint dated 29th November, 2021 from D. She alleged that her husband has abandoned his responsibilities towards their daughter.

C/2021/618/KN

The Commission received a complaint dated 11th August, 2021 from D of Darmanawa, Tarauni LGA, Kano State. She alleged that her husband has abandoned all the responsibilities of their family to her.

C/2021/654/KN

The Commission received a complaint dated 23rd August, 2021 from D of Sabongari, Fagge LGA, Kano State. She alleged that her husband physically assaulted her and as a result of that she moved out of his house and he has refused to take up responsibilities towards her and their two daughters.

C/2021/660/KN

The Commission received a complaint dated 24th August, 2021 from D of Unguwa-Uku, Tarauni LGA, Kano State. She alleged that her husband has neglected his responsibilities towards his family.

C/2021/858/KN

The Commission received a complaint dated 18th November, 2021 from D of Yankaba, Nassarawa LGA, Kano State. She alleged that Y, her husband, has been physically assaulting their daughter and has also abandoned his responsibilities towards them.

C/2021/888/KN

The Commission received a complaint dated 2nd December, 2021 from D of Badawa, Nassarawa LGA, Kano State. She alleged that her husband has abandoned his family responsibilities. She alleged further that Y tried to rape their daughter.

KNSO/C/2021/782

The Commission is in receipt of a complaint dated 11th October, 2021 from D who alleged her husband of abandoning his parental responsibilities to their four children. She further stated that Y had travelled for six months and only left her and their children the sum of ₦2,000 (Two Thousand Naira) and has since not provided for them.

KNSO/C/2021/855

The Commission is in receipt of a complaint dated 17th November, 2021 from D who alleged that her husband divorced her and abandoned the upkeep of the children to her.

C/2021/6878/PSO

The Commission received a complaint dated 28th June, 2021 from D who resides in Angwan-Rukuba, Jos, Plateau state. D stated that she has 3 children with the Respondent whose ages are 20, 11 and 8 years old respectively. D alleged that her husband sent her out of the house a year ago and abandoned his responsibilities towards their children.

C/2021/6940-6944/PSO

The Commission received a complaint dated 27th July, 2021 from D who resides in Latiya Du, Plateau State. D stated that she got married to the respondent and has six children aged 20, 18, 15, 8, 7 and 5 years old respectively. D further stated that she left the respondent due to misunderstandings they could not resolve. D alleged that the respondent has abandoned his responsibilities towards their children and has denied her access to them.

C/2021/6961-6964/PSO

The Commission received a complaint dated 3rd August, 2021 from D who resides along Bauchi Ring Road, Jos, Plateau State. D stated that she is married to the Respondent and they have 3 children together who are 7, 4 and 1 years old. D alleged that the Respondent has refused to enroll their children into school and he has abandoned his responsibility to the family.

C/2021/7237-7239/PSO

The Commission received a complaint dated 23rd August, 2021 from D who resides at Bukuru, Plateau State. D stated that she is married to the Respondent and they have two children together who are 5 and 2 years old. She alleged that the Respondent has not been providing for the family and paying the children's school fees.

C/2021/7241/PSO

The Commission received a complaint dated 24th July, 2021 from D who resides at Mista Ali, Jos, Plateau State. D alleged that she had a 1-year-old child with the Respondent who has been abandoned by him.

C/2021/6955-6956/PSO

The Commission received a complaint dated 30th July, 2021 from DY who stated that D got pregnant for the Respondent when they were in school in 2010 and gave birth to a child who

is 11 years now. DY then alleged that since D gave birth, she has been the only one taking responsibility for the child's upkeep.

C/2021/6860-6864/PSO

The Commission received a complaint on the 22nd June, 2021 from D against Y, the father of their four children. She alleged that Y left her to fend for herself and the children alone.

C/2021/6745/PSO

The Commission received a complaint dated 18th May, 2021 from D who is 20 years old. D alleged that she had an affair with the Respondent, a teacher who is about 40 years, and it produced a child who is 2 years old. She alleged further that the Respondent has abandoned his responsibilities as a parent.

C/2021/6636-6637/PSO

The Commission received a complainant dated 5th May, 2021 from D who stated that she got married to the respondent who is 43 years old and they have two children and live in Plateau State. D alleged that the respondent has refused to cater for the children and she is finding it difficult to cater for them alone.

C/2021/5476-5477/PSO

The Commission received a complaint dated 28th January, 2021 from D. D stated that she was married to the Respondent for four years and they have two children aged 5 years and 14 months old respectively and live in Plateau State. D alleged that the Respondent has threatened to take the children away from her while also neglecting his responsibilities over his children's welfare.

C/2021/6757-6760/PSO

The Commission received a complaint dated 19th May, 2021 from D. D stated that she has been married to the Respondent since 2001 and lived in Plateau State until their divorce. They have three (3) children whose ages are 17, 15 and 9 years respectively. D alleged that the Respondent has neglected his responsibilities towards his children.

NHRC/2021/38/CAL

The Commission received a complaint dated 2nd June, 2021 from D who alleged that she had a son 16 years ago for her estranged husband who has since then abandoned her and the child.

NHRC/2021/25/CAL

The Commission received a complaint dated 21st April, 2021 from D who alleged that her husband has abandoned his parental responsibilities towards their 3 children after throwing her out of the house. She stated that she has no place and funds to rent an apartment for her and the children.

NHRC/2021/16/CAL

The Commission received a complaint dated 3rd March, 2021 from D who alleged that Y has abandoned her and their kids without upkeep.

NHRC/2021/50/CAL

The Commission received a complaint dated 9th July, 2021 from D who alleged that their children were abandonment by her husband without upkeep.

NHRC/2021/43/CAL

The Commission received a complaint dated 16th June 2021 from D who alleged that her husband forcefully took away their child at 3 years old and had denied her access to him.

NHRC/2021/49/CAL

The Commission received a complaint dated 30th June 2021 from D who alleged that her husband with whom she had a child and has refused to fulfil his fatherly responsibilities towards their child.

NHRC/2021/21/CAL

The Commission received a complaint dated 30th March 2021 from D who alleged that her husband has abandoned his fatherly responsibilities towards their three children.

C/2021/IMS/124/W&C

The Commission received a complaint dated 12th of July, 2021 from Y who alleged sedual abuse and child molestation against his daughter by a bus driber on Friday, 2nd July, 2021 at Owerri, Imo State.

C/2021/612/KN

The Commission received a complaint dated 10th August, 2021 from D. She alleged that Y, her ed-husband has abandoned all the responsibilities towards their daughter since he diforced D when their daughter was just a baby.

C/2021/663/KN

The Kano State Office of the Commission received a complaint dated 27th August, 2021 from D. She alleged that Y, her ed-husband took away their two daughters and denied her custody.

C/2021/732/KN

The Commission received a complaint dated 17th September, 2021 from D of Tudun Maliki, Kumbotso LGA, Kano State. She alleged that after the death of her sister, the husband to her late sister abandoned all the responsibilities towards his daughter.

KNSO/C/2021/832

The Commission received a complaint dated 8th Nofember, 2021 from D. she alleged that her son in law refused to take up responsibility for his children which he had with D's deceased daughter.

KNSO/C/2021/864

The Commission is in receipt of complaint dated 2nd Nofember, 2021 from D. She alleged that Y, her ed-husband refused to take custody of his 11- year-old son with her and she wants to remarry.

KNSO/C/2021/907

The Commission received a complaint dated 10th September, 2021 from DD alleging that Y impregnated her daughter and refused to take up responsibility for the child.

KNSO/C/2021/642

The Commission received a complaint dated 19th August 2021 from Y. He alleged that D, his wife has been maltreating her step children by denying them food.

KNSO/C/2021/775

The Commission received a complaint dated 8th October, 2021 from D. She alleged that her Y, her ex-husband has abandoned all the responsibilities of their child since he divorced her. D further alleged that Y failed in his responsibility even though the process of payment of maintenance has been under the supervision of the Commission.

C/2021/133/RSO

The Commission received a complaint dated 24th May, 2021 from D alleging that Y, her husband of three years, has abandoned his responsibilities towards their two children, ages 3 and 1 year since the 26th of April 2021 after a slight altercation.

C/2021/136/RSO

The Commission received a complaint from D dated 25th May, 2021 alleging lack of parental care on the part of Y, the father of their children following the dissolution of their marriage.

C/2021/35/RSO

The Commission received a complaint dated 5th February, 2021 by D against Y, her lover. D alleged that she had a child for Y. She further alleged that she was always beaten up by Y who fails in his responsibilities towards the child. D stated that in December 2020, Y asked her to bring the child so that he can spend more time with him, but after some time Y refused to let the child go back to her and has denied her access.

C/2021/52/RSO

The Commission received a complaint dated 22nd February, 2021 from D alleging that her mother brought her and her sibling to Port Harcourt in April 2020 during the covid-19 pandemic and kept them in their uncle's care after which she left for Lagos and never returned for them.

C/2021/123/RSO

The Commission received a complaint dated 4th May, 2021 from D alleging that Y, her boyfriend has abandoned his responsibilities to their baby.

C/2021/114/KD

The Commission received a complaint dated 28th August, 2021 from D against Y, her husband. D alleged inhuman treatment, lack of care and mental abuse by Y. D further alleged that Y finally abandoned her and their children.

C/2021/190/RSO

The Commission received a complaint dated 26th July, 2021 from D against Y, the father of her child. D alleged that Y has failed to cater for the welfare of their child.

C/2021/179/RSO

The Commission received a complaint dated 8th July, 2021 from D against Y, her husband. D alleged that Y abandoned her and their children some months ago without providing for their educational welfare and livelihood.

C/2021/175/RSO

The Commission received a complaint dated 6th July, 2021, from D against Y, her husband. D alleged that Y abandoned his parental responsibilities to their two children and walked away to stay with his extended family and his two children he had prior to their marriage.

C/2021/117/RSO

The Commission received a complaint dated 26th April, 2021 from D against Y, her husband. D alleged that in April 2015, Y abandoned his parental responsibilities to their children in Port Harcourt and relocated to Imo State. D further alleged that Y forcefully took one of their children from her when she went to Imo State to report him.

C/2021/106/RSO

The commission received a complaint dated 14th April, 2021 from D against Y, her husband. D alleged that since January, 2020, Y has not contributed to the upkeep of their child.

C/2021/98/RSO

The Commission received a complaint dated 7th April, 2021 from D against Y, the father of her child. D alleged that Y impregnated her and has failed to contribute to her upkeep.

C/2021/149/RSO

The Commission received a complaint dated 2nd June, 2021 from D against Y, the father of her children. D alleged that Y has failed to live up to his responsibility towards their children by not providing for them.

C/2021/200/RSO

The Commission received a complaint dated 13th August, 2021 from D against Y, the father of her children. D stated that she was cohabiting with Y and they had four (4) children, all girls. D alleged that Y has moved out of their house in 2019 and has since then abandoned them without providing towards their welfare, shelter or upkeep.

C/2021/209/RSO

The Commission received a complaint dated 1st September, 2021 from D against Y, her husband. D alleged that Y abandoned her and their two (2) children in Rivers State and moved to the United States of America where he married a Caucasian woman and started sending money which she considers insufficient.

C/2021/176/RSO

The Commission received a complaint dated 6th July, 2021 from D against Y, her husband. D alleged that Y abandoned her and their three (3) children since 2017 without any welfare and all efforts to locate him has proved abortive.

C/2021/118/RSO

The Commission received a complaint dated 27th April, 2021 from D against Y, the father of her children. D stated that she has been cohabiting with Y for seven (7) years now with a four (4) years-old daughter and her unborn child in Rivers State. D alleged that Y beats her up even during pregnancy and has since 5th April, 2021 abandoned his parental responsibilities to their children.

C/2021/72/RSO

The Commission received a complaint dated 16th March, 2021 from D against Y, her husband. D alleged that Y abandoned her and their one-year-old child in Rivers State and went to cohabit with a new lover. She further alleged that on 13th February, 2021, Y abducted their child and D later discovered that the child is with Y's mother who refused to give her child back to her.

C/2021/34/RSO

The Commission received a complaint dated 8th February, 2021 from D against Y, her ex-husband. D alleged that Y has stopped taking care of their only child since their divorce. D further alleged that Y claimed their daughter is not his and he cannot take responsibility for her.

C/2021/23/RSO

The Commission received a complaint dated 27th January, 2021 from D against Y, the father of their children. D stated that she was cohabiting with Y for 23 years in Rivers State. D alleged that Y abandoned his parental responsibilities to their five (5) children since April 2020 without any welfare. D also alleged that Y has since moved out and is now living with another woman.

C/2021/6933-6934/PSO

The Commission received a complaint dated 26th July, 2021 from D against Y, her husband and the father of their 5-year-old daughter. D alleged that Y does not take care of his family in terms of feeding, clothing and other basic needs.

C/2021/31/EDO

The Commission received a complaint dated 7th April, 2021 from Y1 against Y2, his neighbor. Y1 alleged that his neighbor violently abused his children at the residence they all stay in Benin City. Y1 further alleged that even after several warnings to his neighbor, the abuse continued.

C/2021/IMS/86/W&C

The Commission received a complaint dated 3rd May, 2021 from D against Y, her husband. D alleged that Y abandoned his children since 19th November, 2020. That all efforts to make him assist in the children's welfare have proved futile.

C/2021/IMS/74/W&C

The Commission received a complaint dated 16th April, 2021 from D against Y, her husband. D alleged the denial of custody of their children and intimidation by Y who moved out with the children from their matrimonial home.

C/2021/16/EDO

The Commission received a complaint dated 16th April, 2021 from D against Y, the father of her children. D alleged that Y denied her access to her children. She also stated that they have been separated for sometimes now and that they both reside in Benin City.

C/2021/17/EDO

The Commission received a complaint dated 19th December, 2021 from D against Y, the father of her baby. D alleged that Y abandoned his child and refused to provide for the child's upkeep, claiming lack of money.

C/2021/IMS/09/W&C

The Commission received a complaint dated 18th January, 2021 from D against Y, her husband. D alleged that Y forcefully took her four-month-old daughter from her on 4th October, 2020 at his residence, Ohii, Owerri West L.G.A, Imo State. That all effort to return the breastfeeding baby to her has proved futile.

NHRC/EBO/121

The Commission received a complaint dated 26th February, 2021 from D against Y, her husband and the father of their children. D alleged that Y abandoned her and their children and married another woman, in so doing abandoned all responsibility towards their children.

C/2021/IMS/116/W&C

The Commission received a complaint dated 30th June, 2021 from D against Y, her husband and the father of her children. D alleged that Y abandoned her and the children with her without caring for their welfare at Ezelu Okwe in Onuimo L.G.A, Imo State.

NHRC/EBO/122

The Commission received a complaint dated 24th April, 2021 from D against Y, her husband. D alleged that Y abandoned her and left with their two children to an unknown destination, leaving behind one of them without provision for food, education and shelter.

NHRC/EBO/115

The Commission received a complaint dated 1st February, 2021 from D against Y, her husband. D alleged that Y chased her out of their home with her children without providing for their well-being and other necessary things for the children.

C/2021/92/AKS

The Commission received a complaint dated 30th June, 2021 from D alleging that since the 1st of June, 2021, Y her husband had abandoned his responsibilities to her and their four children at Ifa Ikot Akpabio, Uyo, Akwa Ibom State.

C/2021/76/AKS

The Commission received a complaint dated 18th May, 2021 from D alleging that since 15th April, 2021, Y the father of her child has neglected his fatherly responsibilities towards their child.

C/2021/65/AKS

The Commission received a complaint dated 20th April, 2021 from D who resides at Uyo, Akwa Ibom State, alleging that since December 2020, Y has neglected his fatherly responsibilities towards their child.

C/2021/51/AKS

The Commission received a complaint dated 18th March, 2021, from D who resides at Ifa-Atai, Uyo, Akwa Ibom State. D stated that she was in a relationship with Y which resulted in the birth of their child. D alleged that since their separation in March 2020, Y has refused to

fulfil his fatherly responsibilities towards their child.

C/2021/WC & VG/176-177/AMO

The Commission received a complaint dated 11th January, 2021 from D who resides in Karu, Abuja. D alleged that Y, her husband whom she has been married to for eight, has refused to fulfil his fatherly responsibilities towards their child.

C/2021/WC & VG/270-272/AMO

The Commission received a complaint dated 3rd August, 2021 from D who resides in Mararaba, Nasarawa State. D alleged that Y, her husband has abandoned her and their two children due to issues arising from their religious differences. She also stated that her husband who was sending the sum of N5, 000.00 monthly to her, has stopped fulfilling his fatherly responsibilities towards their children since January, 2020.

C/2021/WC & VG/299-304/AMO

The Commission received a complaint dated 31st August, 2021 from D who resides in Masaka, Nasarawa state, alleging that Y her husband has since May, 2020 failed to fulfil his fatherly responsibilities towards their five children.

C/2021/WC & VG/195-197/AMO

The Commission received a complaint dated 24th May, 2021 from D who resides at Orozo, Abuja stating that she has been co-habiting with Y since 2004 and they have three children. She alleged that for the past three years, Y has stopped fulfilling his father's responsibilities towards their children.

C/2021/WC & VG/228-230/AMO

The Commission received a complaint dated 19th May, 2021 from D who resides in Mararaba, Nasarawa State, alleging that Y, her husband of nine years and the father of her children has refused to live up to his fatherly responsibilities.

C/2021/WC&VG/217-221/AMO

The Commission received a complaint dated 22nd April, 2021 from D who resides at Aso C, Mararaba, alleging that her husband of seventeen years has for the last five years refused to fulfil his fatherly responsibilities towards their children.

C/2021/WC & VG/257-258/AMO

The Commission received a complaint dated 19th July, 2021 from D who resides at the Market side, Orozo, Abuja who alleged that Y got her pregnant and has refused to take up his fatherly responsibilities since the birth of their daughter.

C/2021/17/ZM

The Commission received a call from the Sedual Assault Referral Centre to interbene in a case of rape of a female minor.

JG/C/2021/029

The Commission received a complaint dated 7th April, 2021 from DY of Kiyawa Local Gobernment Area of Jigawa State, alleging that on 23rd March, 2021 an under-aged boy was sodomised at Kiyako Billage in Birnin Kudu Local Gobernment Area of Jigawa State by the respondent and three (3) others.

JG/C/2021/019

The Commission received a complaint dated 20th February, 2021 from Y of Hadejia Local Gobernment Area, Jigawa State, alleging that the respondent has denied him access to his four children. Y further alleged that his children lack fatherly care and all efforts made to ensure that he gets access failed.

JG /2021/007

The Commission received a complaint dated 1st February 2021, from DY of Kiyawa Local Gobernment Area of Jigawa State, alleging that a fourteen (14) year-old girl of Hammayayi Billage Dutse in Jigawa State, was on 15th January 2021 defiled by two (2) men.

JG/C/2021/043

The Commission received a complaint dated 30th June, 2021 from Y of Gagarawa Local Gobernment Area of Jigawa State, alleging that his son was sedually assaulted (sodomised) on 24th June, 2021 by the respondent who libes at Gagarawa Local Gobernment Area of Jigawa State.

JG /2021/089

The Commission received a complaint dated 12th July, 2021 from DY of Kiyawa Local

Government Area of Jigawa State, alleging that a five (5) year-old girl of Dutse in Jigawa State was defiled by the respondent on 11th July, 2021. DY further alleged that the matter was reported to the State Police Command however, the respondent has been released on bail.

JG/C/2021/001

The Commission received a complaint dated 11th January, 2021 from DY of Gwaram Local Government Area of Jigawa State, alleging that a four (4) year-old girl was on 5th January, 2021 defiled in Gwaram Town in Jigawa State by the respondent who lives at the same address as the 4-year-old girl.

JG/C/2021/037

The Commission received a complaint dated 23rd May, 2021 from DY of Kiyawa Local Government Area of Jigawa State, alleging that his younger brother who lives with him was sodomised on 15th May, 2021 by the respondent who lives at the same address.

JG/C/2021/095

The Commission received a complaint dated 11th August, 2021 from D of Dutse Local Government Area of Jigawa State, alleging that her ex-husband of Kiyawa Local Government Area of Jigawa State has abandoned his responsibilities towards his six (6) children.

JG/C/2021/022

The Commission received a complaint dated 10th March, 2021 from Y of Kaugama Local Government Area of Jigawa State, alleging that his thirteen (13) year-old daughter was on 12th February, 2021 defiled in Kaugama Town Jigawa State by the respondent who also lives in the same address with him.

JG/C/2021/031

The Commission received a complaint dated 12th April, 2021, from Y of Babura Local Government Area of Jigawa State alleging that his son was maliciously accused of defiling a nine (9) year-old girl of same address. Y alleged that his son is being prosecuted for the crime he did not commit.

NHRC/ABS/2021/085

The Commission received a complaint dated 7th June, 2021 from DY over the alleged illegal custody of a child. DY stated that the respondent, who has custody of the child, has denied the mother access to her child for the past three (3) years.

NHRC/ABS/2021/116

The Commission received a complaint dated 12th August, 2021 from D alleging that the father of her children has refused her access to her children in Abia State.

NHRC/ABS/2021/012

The Commission received a complaint dated 3rd February, 2021 from D alleging that on 31st January 2021, her husband's cousin lured her seven (7) year-old daughter into his house and defiled her.

NHRC/ABS/2021/047

The Commission received a complaint dated 8th April, 2021 from DY alleging cruel, inhuman and degrading treatment of a fourteen (14) year-old orphan and his sister by their uncle at his family compound in Umuahia South Local Government Area of Abia State.

NHRC/ABS/2021/060

The Commission received a complaint dated 21st April, 2021 from DY alleging that a twelve (12) year-old girl was defiled several times by the respondent who is twenty-seven (27) years old at Umuahia, Abia State.

NHRC/ABS/2021/065

The Commission received a complaint dated 22nd April, 2021 from DY. DY alleged that an eleven (11) year-old boy (Y) was being subjected to cruel, inhuman and degrading treatment since Y's mother became mentally challenged, by his grandmother in Abia State. DY further alleged that on 5th April 2021, the grandmother threw Y off a storey building and he broke his right wrist and right ankle. DY also claimed that from the time the incident happened, neighbours have been taking care of the boy as the grandmother has refused him entry into the house.

NHRC/ABS/2021/081

The Commission received a complaint dated 25th May, 2021 from D who is a widow with five (5) children. D alleged continued defilement of her thirteen (13) year-old daughter by the respondent who lives in Umuahia North in Abia State. D also alleged that the respondent is at large.

NHRC/ABS/2021/121

The Commission received a complaint dated 20th August, 2021 from Y alleging that two (2) men from Ikwuano in Abia State were defiling his thirteen (13) year-old daughter and this has been going on for some months now.

NHRC/DSO/2021/064

The Commission received a complaint on 27th April, 2021 from DY of Delta state on behalf of a teenager. DY stated that the respondent took advantage of a 16-year-old teenager, got her pregnant twice and abandoned her. DY stated that all attempts to make the alleged violator attend to his responsibilities proved abortive.

C/BAU/2021/246

The Commission received a complaint dated 17th April, 2021 from DY on behalf of D, a female minor against the minor's father. DY alleged that on 2nd April, 2021, D was forcefully married to Y at Magama, Bauchi State.

C/BAU/2021/374

The Commission received a complaint dated 15th June, 2021 from DY of Bauchi LGA, Bauchi State on behalf of his granddaughter. DY alleged that his granddaughter was raped on 13th June, 2021 at Kandahar, Bauchi LGA, Bauchi State by Y.

C/2021/185/AKS

The Commission received a complaint dated 19th November, 2021 from D alleging that the father of her six children abandoned his family and ran away with another woman who is pregnant for him. D further claimed that Y has neglected his responsibilities towards his children.

C/2021/150/AKS

The Commission received a complaint dated 21st September, 2021 from Y who resides in Akwa-Ibom State, alleging that he caught his wife with another man in his house. Y further claimed that his wife voluntarily packed out of his house and later came to his house and took the children to an unknown destination and he has been denied access to them.

C/2021/205/AKS

The Commission received a complaint dated 13th December, 2021 from D alleging that her husband neglected his responsibility in caring for their two children aged five (5) and three (3) years. D further claimed that her husband moved out of the house, leaving her stranded with the children.

C/2021/184/AKS

The Commission received a complaint dated 11th November, 2021 from D alleging that her husband neglected his responsibilities in co-parenting their two children aged four (4) and two (2) years respectively and he stopped providing for their welfare.

C/2021/177/AKS

The Commission received a complaint dated 4th November, 2021 from D alleging that her husband denied her access to their children and in July, 2021, he moved the children to Ikom in Cross River State, where he is co-habiting with another woman, without her consent.

C/2021/195/AKS

The Commission received a complaint dated 22nd November, 2021, from D of Ifa Ikot Okpong in Akwa-Ibom State alleging that her husband abandoned her and their children thereby subjecting them to all sorts of social ills.

C/2021/161/AKS

The Commission received a complaint dated 14th October, 2021 from D alleging that her husband neglected his responsibilities towards their children and has threatened to take the children away from her to his family members. D further claimed that the husband requested she leave his house.

C/2021/146/AKS

The Commission received a complaint dated 16th September, 2021 from D alleging that she left her eleven months old child with her mother-in-law in Akwa-Ibom State and relocated to Lagos State to earn a living. D further claimed that she came from Lagos to check on her daughter but was denied access by the mother-in-law.

C/2021/179/AKS

The Commission received a complaint dated 5th November, 2021 from D alleging that her daughter, who is now 15 years old, has been neglected by her father from when she was a toddler.

C/2021/171/AKS

The Commission received a complaint dated 28th October, 2021 from Y alleging that D, who is the mother of his two children, absconded with the children claiming that he is not their biological father.

C/2021/135/AKS

The Commission received a complaint dated 1st September, 2021 from D alleging that her husband abandoned her and their children without caring for them. D further claimed that the rent of the house they are living in had expired and the landlord had threatened to evict them if they fail to pay. D alleged that when her husband came to visit the family, he threw her and the children out of the house.

C/2021/WC &VG/372-373/AMO

The Commission received a complaint dated 5th November, 2021 from D who resides in Nasarawa State, alleging that the father of her ten (10) months old child has abandoned his fatherly responsibilities.

C/2021/WC &VG/314-318/AMO

The Commission received a complaint dated 15th September, 2021 from D who resides at Orozo, FCT alleging that her husband, who is the father of her four (4) children abandoned his fatherly responsibilities and she is finding it difficult to cope without his contribution.

C/2021/WC &VG/399-405/AMO

The Commission received a complaint dated 29th November, 2021 from D who resides in Mararaba, Nasarawa State alleging that the father of her six children abandoned his fatherly responsibilities.

C/2021/WC &VG/389-391/AMO

The Commission received a complaint dated 18th November, 2021 from D who resides in Nasarawa State alleging that the respondent neglected his responsibility as a father. D claimed to have been taking care of their two children alone without his support and she is finding it difficult to cope.

C/2021/WC &VG/381-383/AMO

The Commission received a complaint dated 8th November, 2021 from D residing at Nyanya, FCT alleging that the father of her two children abandoned his fatherly responsibilities.

C/2021/WC&VG/377-379/AMO

The Commission received a complaint dated 5th November, 2021 from D who resides in New Nyanya, Nasarawa State alleging that the father of her two (2) children refused to take up his parental responsibility and abuses her physically and emotionally.

C/2021/WC & VG/2478-2479/HQ

The Commission received a complaint dated 25th November, 2021 from D who resides in Mararaba, Nasarawa State alleging that the father of her child refused to increase the monthly amount of money for upkeep of their child.

C/2021/WC & VG/406-409/AMO

The Commission received a complaint dated 29th November, 2021 from D who resides at Karu, Nasarawa State. D alleged that the father of her three children took the children away without her consent to an unknown destination.

C/2021/WC & VG/335-336/AMO

The Commission received a complaint dated 29th September, 2021 from D who resides in Mararaba, Nasarawa State. D alleged that the father of her three children has been abusing her physically and has also abandoned his fatherly responsibilities.

C/2021/WC & VG/337-340/AMO

The Commission received a complaint dated 28th November, 2021 from D residing at Orozo, FCT. D alleged that the father of her three children abandoned his fatherly responsibilities.

C/2021/WC & VG/385-388/AMO

The Commission received a complaint dated 16th November, 2021 from D residing at Koroduma, Nasarawa State. D alleged that the respondent, who is the father of her three children, abuses her physically and emotionally and has also abandoned his fatherly responsibilities.

C/2021/WC & VG/362-364/AMO

The Commission received a complaint dated 1st November, 2021 from D residing at New Nyanya, Nasarawa State. D alleged that her husband maltreats her and neglects his responsibilities toward their children.

C/2021/7392-7394/PSO

The Commission received a complaint dated 25th October 2021, from DD who resides in Plateau State on behalf of herself and her siblings aged seventeen (17) and eighteen (18) years against their father, the respondent. DY stated that the respondent abandoned his responsibilities towards her and her siblings when they lost their mother in 2008 and he married another woman.

C/2021/7470-7473/PSO

The Commission received a complaint dated 22nd November, 2021 from D who resides in Kwang, Plateau State. D alleged that she has been married to the respondent since 2008 and they have three (3) children aged thirteen (13), nine (9) and six (6) years. D stated that the respondent has been abusing her verbally and physically and she could no longer endure it so she went back to her parent's house with the children and since then, the respondent abandoned his responsibilities towards their children.

C/2021/7411-7412/PSO

The Commission received a complaint dated 12th November, 2021 from D who resides in Bom, Plateau State. D stated that she has been cohabiting with the respondent at his family

house for the past thirteen (13) years and they have two children aged thirteen (13) and eight (8) years. D further alleged that the respondent moved out of the house to live with another woman and abandoned her and the children and has since then stopped providing for the children.

C/2021/7423/PSO

The Commission received a complaint dated 10th November, 2021 from D who resides at Old-Airport Road, Plateau State. D stated that she was in a relationship with the respondent and they have a son who is seven (7) years old. D alleged that the respondent has refused to be involved in their son's life and left her with the bulk of responsibilities towards their son.

C/2021/7492/PSO

The Commission received a complaint dated 29th November, 2021, from D who resides at Lamingo Road, Jos, Plateau State. D stated that she started a relationship with the respondent in 2017 and in the process, she got pregnant and gave birth in January, 2020 to their son who is twenty-two (22) months old. D alleged that since she gave birth, the respondent has abandoned his responsibilities towards their son and she has been at the mercy of her neighbours who are helping her cater to the child.

C/2021/7419/PSO

The Commission received a complaint dated 9th November, 2021, from D who resides in Kwang, Plateau State. D stated that she was cohabiting with the respondent and they have a daughter who is three (3) years old. D further stated that she left the respondent when their daughter was a month old and she alleged that since then, the respondent has abandoned his responsibilities towards their daughter.

C/2021/7515-7516/PSO

The Commission received a complaint dated 7th December, 2021 from D who resides at Lamingo Road, Plateau State. D stated that she was in a relationship with the respondent since 2019 and they have a daughter who is twenty (20) months old. D alleged that since she gave birth to their daughter, the respondent neglected his responsibilities towards them.

C/2021/7245-7248/PSO

The Commission received a complaint dated 1st September, 2021 from D alleging that her husband abandoned his responsibilities towards their three children and he recently started threatening her whenever she spoke to him about taking up responsibility in the house.

C/2021/7295/PSO

The Commission received a complaint dated 12th September, 2021 from D alleging that since she got pregnant with the respondent, who is a member of the State House of Assembly Plateau state, she has received threats to her life because she refused to terminate the pregnancy. D further alleged that the respondent has neglected to provide for the child after she gave birth.

C/2021/7278/PSO

The Commission received a complaint dated 13th September, 2021 from D alleging that since she got pregnant and gave birth to a baby boy for the respondent, she has solely handled all responsibility for the child. D further alleged that the respondent did not pay her bride price and he always makes excuses that he has sent all his money to his wife so he does not have any money left for her.

C/2021/7426/PSO

The Commission received a complaint on 11th November, 2021 from DD on behalf of her thirteen (13) year-old daughter who, while living with her father in Jos South Local Government Area of Plateau State, had been branded a witch by members of the community. DD alleged that her daughter had been verbally and physically assaulted on several occasions, sent to at least five (5) prayer houses and been compelled to discontinue her education. DD further alleged that she had been compelled to move her daughter out of the community as a result of the physical assault and was at the time of the complaint being pressured to return her for another 'deliberance' attempt.

C/2021/7305-7306/PSO

The Commission received a complaint on 23rd November, 2021 from D who at the time of the complaint was nine (9) months pregnant alleging that the respondent, who is her husband,

had neglected to care for her during the period of the pregnancy thereby denying her the required medical care for her health and that of the unborn child.

C/2021/7302/PSO

The Commission received a complaint dated 28th September, 2021 from D alleging that the respondent, with whom she has two children and has been cohabiting since 2018, abandoned her and the children leaving the burden of caring for them on her alone. She further alleged that the respondent had taken to physically and verbally abusing her in public any time he comes across her.

C/2021/7512/PSO

The Commission received a complaint dated 6th December, 2021 from D who was married to the respondent and they have a child who is two (2) years and four (4) months old. D alleged that the respondent divorced her when their child was three (3) months and stopped providing for their child's needs when the child was ten (10) months old. D further alleged that the respondent wants to take the child from her even though he will not be able to handle all the necessary care their child needs.

C/2021/7545/PSO

The Commission received a complaint dated 17th December, 2021 from D who was married to the respondent. D stated that because of the issues they were having with the respondent, she left the house and also left the children who were in school. D further stated that their families tried to intervene in their matter but to no avail. D alleged that the respondent has denied her access to her children.

C/2021/7339/PSO

The Commission received a complaint dated 5th October, 2021 from D who lives in Barkin-Ladi, Plateau State. D stated that she is a 27-year-old, self-employed woman, who got married in June, 2020 to the 39-year-old respondent, who is a Pastor but unemployed and they have an eight (8) months old son. D alleged that she started having problems with the respondent when his mother began to interfere in their marriage because his parents were supporting them financially; to the extent that the respondent and his parents stopped her from visiting her parents

C/2021/7288/PSO

The Commission received a complaint dated 15th September, 2021 from D who resides along Lamingo Road, Plateau State. D stated that she got married to the respondent in 2003 and they have four children with the eldest being eight (8) years old and the youngest two (2) months old but the respondent has not been providing for them. D alleged that the respondent physically batters her at every slightest provocation.

C/2021/7369/PSO

The Commission received a complaint dated 20th October, 2021 from DY, a law firm on behalf of D. DY alleged that D had an affair with the 35-year-old respondent and gave birth to twins DY alleged that the respondent began to doubt the paternity of the twins and asked the complainant to go for a DNA test but she has willfully refused on the ground that if the DNA result comes out negative, the burden of caring for the children would be too much for her to bear alone.

C/2021/6966-6967/PSO

The Commission received a complaint dated 3rd August, 2021 from D, a twenty-one (21) year-old woman who resides in Dutse, Jos, Plateau State against Y. D alleged that Y came to her father and asked for her hand in marriage so, she moved in with him and they presently have a son who is nine (9) months old. D further alleged that Y has not been living up to his responsibilities and they are currently homeless.

C/2021/7233-7234/PSO

The Commission received a complaint dated 13th August, 2021 from D who is a 41- year-old woman resident in Sabon Barki, Jos, Plateau State. D stated that she was married to the respondent, and they have a four (4) year old child but are presently separated. D alleged that since the separation, she has been solely responsible for the upkeep of their son because the respondent has completely neglected his parental responsibility and is also denying paternity of their son.

C/2021/7263/PSO

The Commission received a complaint dated 6th September, 2021 from DY who resides in Jos-South, Plateau State. DY alleged that a fourteen (14)-year-old girl was impregnated by a thirty (30) year old man who claimed the victim is his girlfriend.

C/2021/207/RSO

The Commission received a complaint dated 27th August, 2021 from DY alleging that D was molested sexually by three boys continuously for a period of seven (7) months between February and August 2021 at Oyigbo, Port Harcourt and who also threatened D's life if she reported to the authorities.

C/2021/665/KN

The Commission received a complaint dated 30th August, 2021 from Y who alleged that his wife beats his children to the extent of them sustaining injuries.

C/2021/IMS/15 /W&C

The Commission received a complaint dated 21st January, 2021, from D against Y, her husband. D alleged that Y beat her and pursued her out of their matrimonial home in Owerri, Imo State and he also denied her access to her children since 2nd January, 2021.

C/2021/124/RSO

The Commission received a complaint dated 4th May, 2021 from D against Y alleging that since she got married to Y, she has been the one providing for the welfare of the home. D further alleged that when she lost her job, she made Y aware of his responsibility and role which led to his consistent domestic violence toward her.

C/2021/602/KN

The Commission received a complaint dated 6th August, 2021 from D against Y, her husband. D alleged that Y neglects his responsibilities as a father and he used to beat her so badly.

C/2021/6912/PSO

The Commission received a complaint dated 13th July, 2021 from D against Y, the father of her child. D alleged that she has a three (3)-year-old child with Y and that since she gave birth, she has neither seen nor heard from Y.

C/2021/68821/PSO

The Commission received a complaint dated 26th May, 2021 from D against Y, the father of her children. D alleged that Y has totally abandoned his responsibilities towards their children and that he has also refused to pay her dowry.

C/2021/6771-6773/PSO

The Commission received a complaint dated 23rd May, 2021 from D against Y, her husband and the father of their two children. D alleged that Y, for the past 4 years, has abandoned his responsibilities towards her and their children.

C/2021/5458/PSO

The Commission received a complaint dated 20th January, 2021 from D against Y, her lover who got her pregnant. D alleged that Y failed to support her with the pregnancy unless she first converts to Islam.

C/2021/5573-5575/PSO

The Commission received a complaint dated 1st March, 2021 from D against Y, her husband and the father of their three (3) children. D alleged that their 14-year-old daughter left her house to go stay with Y after an argument. D further alleged that Y has refused to let the child return.

C/2021/5608/PSO

The Commission received a complaint dated 8th March, 2021 from D against Y, the father of her child. D alleged that since her separation from Y, he has left everything concerning the child's welfare to her alone.

C/2021/6599/PSO

The Commission received a complaint dated 7th April, 2021 from D who resides at Katon-Rikkos, Jos, Plateau State, against Y, her husband. D alleged that some years into their marriage, Y suffered an accident that affected his health and she took over the responsibility

for the affairs of the family. D further alleged that since Y regained his health, he has failed to assist her to run the affairs of the family financially.

C/2021/6634/PSO

The Commission received a complaint dated 19th April, 2021 from DY a legal representative on behalf of D. DY alleged that D was pregnant for Y and gave birth to the child in 2017. DY further alleged that Y was initially supportive during her pregnancy but stopped assisting in 2018 and she has been singlehandedly responsible for the child since then.

C/2021/6643-6644/PSO

The Commission received a complaint dated 23rd April, 2021 from D who resides at Bauchi Road, Jos, Plateau State against Y, her lover. D alleged that she is four (4) months pregnant for Y and he has denied responsibility. D further alleged that their families have met and agreed that her father will take care of expenses incurred during delivery and the DNA paternity test, while Y will return the amount when it is confirmed that Y was responsible. D, therefore, wants Y to sign a document to affirm this agreement.

C/2021/6711/PSO

The Commission received a complaint dated 11th May, 2021 from D who resides at Liberty Boulevard, Jos, Plateau state against Y, the father of their children. D alleged that she was cohabiting with Y for 4 years during which she had 2 children for Y, aged three (3) and one (1) year-old. D further alleged that Y moved out of their home for about a year now leaving her to cater for the children alone.

C/2021/6810-6812/PSO

The Commission received a complaint dated 1st June, 2021 from D who resides in Gangare, Jos Plateau State against Y, the father of her children. D alleged that after her separation from Y, he was initially handling his responsibilities towards their children but subsequently stopped due to negative advice from his friends.

C/2021/5482-5484/PSO

The Commission received a complaint dated 1st February, 2021 from D who resides at Tudun-wada Jos, Plateau State, against Y, her lover and the father of her children. D stated that she had been cohabiting with Y since 2013 and they had three (3) children. D alleged that

after a disagreement, Y beat her and sent her out of their home and has recently prevented her from seeing the older kids who are living with him.

C/2021/5570-5572/PSO

The Commission received a complaint dated 1st March, 2021 from DY, solicitors on behalf of D against Y, her husband. DY alleged that Y relocated to Mangu, Plateau State from Jos and moved the children to his mother's house in Mangu, denying D access to the children.

C/2021/5508/PSO

The Commission received a Complaint dated 8th February, 2021 from Y who resides at Wase Road GRA Jos, Plateau State against D, his wife. Y alleged that due to irreconcilable differences, D moved out of their matrimonial home with their kids but he has however reports that D travels and leaves the kids for days alone with the nanny.

C/2021/6825/PSO

The Commission received a complaint dated 4th June, 2021 from Y who resides Opposite Fire Service Station Bukuru, Jos, Plateau State. Y alleged that he came across a picture on facebook where a naked girl, who is a minor, was standing with a woman who was fully clothed. Y stated that he found the picture disturbing and wants the law to take its full course so that things like this do not continue in society

C/2021/6668/PSO

The Commission received a complaint dated 26th April, 2021 from D who resides at Rayfield Jos, Plateau State, against Y, her husband. D alleged that due to irreconcilable differences, she moved out of their matrimonial home and she wants the younger of their daughters to move in with her due to Y's irresponsible behaviour of keeping late nights.

C/2021/1096/BSO

The Commission received a complaint dated 21st December, 2020 from D of Modern Market, Makurdi, Benue State. D alleged that her husband abandoned her and their child in December, 2020 and neglected his parental responsibilities.

C/2021/1098/BSO

The Commission received a complaint dated 21st December, 2020 from D of Customary Court Makurdi, Benue State against Y, her husband, on alleged abandonment of family since November, 2020.

C/2021/1104/BSO

The Commission received a complaint on 28th January, 2021 from DD of behind NKST Church Adeke, Makurdi, Benue State on behalf of her daughter on alleged abandonment of wife and unborn baby by Y. DD alleged that her daughter was impregnated by Y who failed to take care of the daughter and her unborn baby since 3rd September, 2020.

C/2021/1110/BSO

The Commission received a complaint on 4th February, 2021 from D of NTA Road Mgbouba Port Harcourt, Rivers State. D alleged that her husband abandoned her and the children in January, 2021. D also alleged that the husband forcefully took their children and denied her access to them on 4th February, 2021.

C/2021/1111/BSO

The Commission received a complaint from D of Akpehe Makurdi, Benue State on 2nd February, 2021, against her husband Y, on alleged abandonment of family. D alleged that her husband abandoned her with two (2) children without providing for family needs for eighteen (18) years.

C/2021/1112/BSO

The Commission received a complaint dated 8th February, 2021 from D of Benin Street Wadata Makurdi, Benue State. D alleged that she had a child with a man who abandoned her in February, 2021.

C/2021/1121/BSO

The Commission received a complaint on 16th February, 2021 from D of Rice Mill Road Wadata, Makurdi, Benue State on alleged abandonment of children. D alleged that her ex-husband abandoned her with their four children after their divorce in 2016.

C/2021/1125/BSO

The Commission received a complaint on 18th February, 2021 from D of Bida Street Wadata Makurdi, Benue State on alleged abandonment of family. D alleged that since 2020, her husband abandoned her and the children without providing for family needs.

C/2021/1126/BSO

The Commission received a complaint on 5th March, 2021 from D of Beekiti Street FCT, on the alleged abandonment of the unborn baby. D alleged that she was impregnated and abandoned by a student of Benue State University Makurdi in October, 2021.

C/2021/1128/BSO

The Commission received a complaint dated 9th March, 2021 from DD of Bida Street, Wadata Makurdi, Benue State of alleged abandonment of an unborn baby. DD alleged that her daughter was impregnated and abandoned by a man in September, 2020.

C/2021/1131/BSO

The Commission received a complaint dated 22nd March, 2021 from D of Glory of Majesty Road, Naka Road Makurdi, Benue State on alleged abandonment of family. D alleged that the father of her children neglected his responsibilities of taking care of the family since March 2021.

C/2021/1134/BSO

The Commission received a complaint on 30th March, 2021 from D of Ahule Logo I Makurdi, Benue State on alleged abandonment. D alleged that the father of her child abandoned his responsibilities towards the family.

C/2021/1136/BSO

The Commission received a complaint on 7th April, 2021 from D of Mbajir Community Secondary School Tarkaa Local Government Area, Benue State on alleged abandonment. D alleged that her husband abandoned her and the children in 2012 without any provisions.

C/2021/1138/BSO

The Commission received a complaint on 6th April, 2021 on alleged child abandonment from D of Bida Street, Makurdi, Benue State. D alleged that she had a child with a man who refused to take responsibility for the child since 2019.

C/2021/1142/BSO

The Commission received a complaint dated 12th April, 2021 from a law firm on behalf of D on alleged abandonment of family. The complainant alleged that D was married to a man and they have 3 children. They further alleged that the husband abandoned D and the children at Ujam Billage, behind the University of Agriculture, Makurdi without any provision.

C/2021/1146/BSO

The Commission received a complaint dated 12th May, 2021 from D of E Division Akpehe Makurdi, Benue State on alleged abandonment. D alleged that she was impregnated and abandoned by a man in April 2021 at Akpehe Makurdi.

C/2021/1147/BSO

The Commission received a complaint dated 13th April, 2021 from D of Mbagir-Shishi Women Ikpayango-Gwer-East Local Government Area on the abandonment of wife and family. D alleged that her husband abandoned her and the children in April 2021.

C/2021/1152/BSO

The Commission received a complaint dated 4th May, 2021 from D of Zuker Street North Bank, Makurdi, Benue State on alleged abandonment of a child. D alleged that the father of her baby abandoned his parental responsibilities towards the baby in May, 2021.

C/2021/1153/BSO

The Commission received a complaint on 4th May, 2021 from DY of Augustina Community Otukpo Road Makurdi, Benue State on alleged abandonment of children. DY alleged that his father abandoned his fatherly responsibilities towards his children and evicted them from his house in May, 2021.

C/2021/1158/BSO

The Commission received a complaint dated 7th May, 2021 from D of Calabar Street High Level, Makurdi, Benue State on alleged child abandonment. D alleged that in May, 2021 the father of her daughter abandoned her and denied paternity of her daughter.

C/2021/1164/BSO

The Commission received a complaint dated 26th May, 2021 from D of behind Mobile Barracks Adeke, Makurdi Benue State on alleged abandonment of family. D alleged that she was abandoned with children by her husband since May, 2021.

C/2021/1165/BSO

The Commission received a complaint on 31st May, 2021 from D of Konshisha Street, Makurdi, Benue State, on alleged abandonment of wife and children. D alleged a lack of care and negligence by her husband since 2020 because they had a misunderstanding.

C/2021/1166/BSO

The Commission received a complaint dated 1st June, 2021 from D of Gboko Road, Makurdi, Benue state on alleged abandonment of children. D alleged that she had a series of misunderstandings with her husband in 2009 and this made him abandon his responsibilities towards his children.

C/2021/1175/BSO

The Commission received a complaint on 18th June, 2021 from D of Kanshio Main Market, Makurdi, Benue State. D alleged that she had a child with a man who abandoned her and the child without any provision since January, 2020.

C/2021/1176/BSO

The Commission received a Complaint on 18th June, 2021 from D of Ute Settlement Agboashul Makurdi, Benue State, on the abandonment of family and maltreatment. D alleged that her husband maltreated and abandoned her with their children in May, 2021 over a misunderstanding that occurred in the family.

C/2021/1179/BSO

The Commission received a complaint on 25th June, 2021 from D of opposite new St. Joseph Akpehe Makurdi on alleged maltreatment/abandonment of children. D alleged that her husband maltreated and chased away their children from the house in June, 2021.

C/2021/1181/BSO

The Commission received a complaint of child abandonment from D on 28th June, 2021 opposite the second gate Benue State University, Makurdi, Benue State. D alleged that she had a child with a man who abandoned her and the baby in September, 2020.

C/2021/1188/BSO

The Commission received a complaint on 19th July, 2021 from D of Welfare Quarters, Makurdi, Benue State, on alleged abandonment of a child. D alleged that she had a child with a man who abandoned her with the child without any form of care since October 2020.

C/2021/1192/BSO

The Commission received a complaint on 27th July from D of New Road, Gboko North, Gboko, Benue State, on alleged abandonment of children. D alleged that her husband abandoned her and her children in July, 2021 without providing for the children.

C/2021/1195/BSO

The Commission received a complaint on 6th August, 2021 from DD of Igbawua Billage, Mkar, Benue State. DD alleged that her sister was impregnated by a man who failed to take up responsibility since June 2021.

C/BAU/2021/389-390

The Commission received a complaint dated 23rd June, 2021 from DY of Toro LGA, Bauchi State on behalf of a minor. The complainant alleged that the victim was raped, impregnated and abandoned by Y who is an adult male.

C/BAU/2021/413

The Commission received a complaint dated 2nd July, 2021 from DY who alleged that a female minor was raped by a male adult at Bununu LGA of Bauchi State.

C/BAU/2021/424-426

The Commission received a complaint dated 9th July, 2021 from DY of Tafawa Balewa LGA, Bauchi State. DY alleged that Y went to Gwammadaji Billage in Tafawa Balewa LGA and took two children of ages 10 and 12 years to an unknown location for the purpose of rearing cattle.

C/BAU/2021/427

The Commission received a complaint dated 9th July, 2021 from DY of Bauchi LGA alleging that Y sedually abused his male child.

C/BAU/2021/468

The Commission received a complaint dated 30th July, 2021 from DY alleging that a minor was raped by Y at Toro LGA of Bauchi State.

C/BAU/2021/475

The Commission received a complaint dated 3rd August, 2021 from DY of Misau LGA, Bauchi State. The complainant alleged that his niece who is a minor was raped and impregnated by Y at Hardawa, Misau LGA of Bauchi State.

C/BAU/2021/495

The Commission received a complaint dated 16th August, 2021 from DY of Bauchi LGA, Bauchi State alleging that D who is a minor was raped by Y.

NHRC/YSO/DT/C/2021/010

The Commission received a complaint from D, a 16-year-old from Damaturu, Yobe State dated 25th January, 2021 who alleged that her biological mother, who is married to another man, is forcing her to marry her current husband's brother. D stated that her biological father lodged a complaint before a Sharia Court and the marriage was stopped and now the mother married her to the same man on 22nd January, 2021.

NHRC/YSO/DT/C/2021/14

The Commission received a complaint from DY of Damaturu, Yobe State dated 21st January, 2021 who alleged that Y, his neighbour lured D, his 4-year-old daughter into his room and defiled her. DY stated that he reported the matter to his superior as a military man and the matter was reported to Police D was taken to the hospital where doctors confirmed the incident.

C/BAU/2021/524

The Commission received a complaint dated 25th August, 2021 from DY of Katagum, Bauchi State on behalf of the victim who is a minor. DY alleged that the victim was raped by Y at Itas Gadau LGA of Bauchi State.

C/BAU/2021/525

The Commission received a complaint dated 25th August, 2021 from DY of Azare-Katagum LGA of Bauchi State alleging that the daughter who is a minor was raped by an adult in Katagum LGA of Bauchi State.

C/BAU/2021/514

The Commission received a complaint dated 23rd August, 2021 from DY against Y. DY alleged that Y raped a minor.

C/2021/1183/BSO

The Commission received a complaint dated 6th July, 2021 from DD on behalf of her niece, D. DD alleged that D was forced into marriage by a neighbor at Makurdi. DD further alleged that after the marriage rites, D's parents were arrested and detained by officers of NPF at the directive of the neighbor.

C/2021/1187/BSO

The Commission received a complaint dated 19th July, 2021 from DD of Makurdi, Benue State on behalf of her daughter. DD alleged that in July 2021, her 14-year-old daughter was defiled by a man at their residence.

C/BAU/2021/001

The Commission received a complaint dated 4th January, 2021 from DY alleging rape, inhuman and degrading treatment (Female Genital Mutilation) of a 6-year-old girl by two male adults at Jamaare LGA of Bauchi State.

C/BAU/2021/002

The Commission received a complaint dated 4th January, 2021 from DY alleging that on 1st January 2021, a male adult sexually abused a female minor in Bauchi State.

NHRC/YSO/DT/C/2021/013

The Commission received a complaint from DD of Damaturu, Yobe State dated 8th January, 2021. DD alleged that Y, an inmate detained at Potiskum, Yobe State, raped D, her 15-year-old daughter whom she took for rehabilitation. DD stated that she discovered D her daughter was two (2) months pregnant after she was released.

NHRC/YSO/DT/C/2021/020

The Commission received a complaint from DD of Damaturu, Yobe State dated 4th February, 2021 who alleged that her husband, the stepfather of her daughter, sexually assaulted D, her daughter countless times and threatened to kill her if D disclosed the incident. DD stated that the daughter became pregnant and the matter was reported to the Police. DD further stated that Y accepted responsibility but D died during childbirth.

NHRC/YSO/DT/C/2021/27A

The Commission received a complaint from DY of Damaturu, Yobe State dated 2nd March, 2021 who alleged that Y impregnated his 16-year-old daughter. DY stated that the matter was reported to the Police and Y accepted responsibility and undertook to provide all medical and naming ceremony requirements. DY however stated that after D deliberated, Y refused to abide by the terms of the agreement.

NHRC/C/2021/YSO/DT/047

The Commission received a complaint dated 27th May, 2021 from DY of Damaturu, Yobe State, who alleged that Y, who is resident in the Community, sodomizes minors in the community. DY reported the matter to the Police 'A' Division, Damaturu.

C/2021/054/KD

The Commission received a complaint from D dated 15th July, 2021 against Y, the father of her children. D alleged abandonment and lack of care by Y who abandoned her and their 3 children since divorcing her 3 years ago, without provision for feeding, school fees, clothing and health care.

GSO/C/2021/080

The Commission received a complaint dated 19th April, 2021 from DY on behalf of the respondent's children. DY alleged that the respondent maltreats his children and inflicts injuries on them at any slightest provocation. DY further claimed that the respondent has neglected his children and refused to give them food and education and has been constantly threatening to kill them.

GSO/C/2021/010

The Commission received a complaint dated 11th January, 2021 from D alleging that she found out after their marriage that her husband is a drunk which has adversely affected their marital life. D further claimed that her husband has denied their children basic education because he has refused to enroll them in school.

GSO/C/2021/045

The Commission received a complaint dated 12th March, 2021 from DY alleging that the respondent maltreats his children and refused to take care of their education.

GSO/C/2021/112

The Commission received a complaint dated 18th May, 2021 from DY on behalf of D alleging that D's husband has refused to take responsibility for the welfare, medical needs and education of their children.

C/2021/7541-7543/PSO

The Commission received a complaint dated 17th December, 2021 from D who resides in Kwang, Jos, Plateau State. D stated that she is married to the respondent and they have 2 children aged 9 and 3 years old. D alleged that the respondent does not pay the children's school fees and is neglectful of their family's needs. D further alleged that the respondent has left her with the responsibility of welfare and paying their children's school fees

singlehandedly. She explained that anytime she tries to talk to him about it, he becomes violent and insulting, and sometimes threatens her.

ANS/SEZ/2021/038

The Commission received a complaint dated 22nd February, 2021 from D against Y her husband. D alleged that after the Christmas holidays, Y refused to return with their children from Nibo, Awka South to their base in Onitsha area of Anambra State where the children are schooling. D further alleged that Y's refusal is based on the fact that he could no longer afford to pay the school fees in their present school, hence, prefers to enroll them in a public school at Nibo. Efforts made for the husband to consent to the children going back with D for the purpose of acquiring quality education at their base were futile.

C/2021/178/KD

The Commission received a complaint on 22nd November, 2021 from D who alleged that her ex-husband abandoned her and the children after their divorce. D further alleged that there has not been any maintenance in respect of feeding allowance and school fees for the children.

C/2021/191/KD

The Commission received a complaint on 13th December, 2021 from D who alleged that her ex-husband divorced her and left her with the responsibility of feeding and paying the school fees of their children without any help from him.

C/2021/6961-6964/PSO

The Commission received a complaint dated 3rd August, 2021 from D who resides along Bauchi Ring Road, Jos, Plateau State. D stated that she is married to the Respondent and they have 3 children together who are 7, 4 and 1 years old. D alleged that the Respondent has refused to enroll their children in school and he has abandoned his responsibility to the family.

C/2021/7237-7239/PSO

The Commission received a complaint dated 23rd August, 2021 from D who resides at Bukuru, Plateau State. D stated that she is married to the Respondent and they have two

children together who are 5 and 2 years old. She alleged that the Respondent has not been providing for the family and paying the children's school fees.

NHRC/2021/36/CAL

The Commission received a complaint dated 26th May, 2021 from D who alleged that her husband abandoned their two male children aged 16 and 13 years without upkeep including school fees and feeding.

C/2021/788/KN

The Commission received a complaint dated 23rd September, 2021 from D. D alleged that Y refused to pay the school fees of his four (4) children.

C/2021/75/RSO

The Commission received a complaint dated 17th March, 2021 by D against Y, her husband. D alleged that Y beats her and fails to provide for her and their children by not providing towards their education, welfare and livelihood.

C/2021/102/RSO

The Commission received a complaint dated 12th April, 2021 from D against Y, her husband. D alleged that Y did not allow her to work and physically assaults her. She further alleged that Y fails to provide for her and their children by not providing for their educational welfare and livelihood

C/2021/5560-5562/PSO

The Commission received a complaint from D against Y, her husband. D alleged that after their divorce, Y has stopped taking care of their children. D further alleged that Y neither sends them to school nor provides for their upkeep.

C/2021/108/AKS

The Commission received a complaint dated 2nd August, 2021 from D, a 15-year-old girl, alleging that Y, her father, has refused to pay for her education and provide upkeep.

C/2021/WC &VG/173-174/AMO

The Commission received a complaint dated 8th February, 2021 from D who resides in New Nyanya, Nasarawa State. D alleged that Y, her husband, threatened to sell their house which they jointly built. She further alleged that Y has failed to fulfill his parental responsibilities towards their daughters' education.

C/2021/7434-7436/PSO

The Commission received a complaint dated 15th November, 2021 from D, a twenty-seven (27) year-old woman resident at Bauchi Road, Jos, Plateau State, who stated that she was in a relationship with the respondent and they have two (2) children aged five (5) and three (3) years. D stated that she ended the relationship and is presently living with the children and that since she left, the respondent has not been assisting in the welfare of the children. D further alleged that there is a backlog of unpaid school fees of N19, 000 that the respondent has not paid.

C/2021/5628-5630/PSO

The Commission received a complaint dated 15th March, 2021 from D who resides in Tudun Wada, Jos Plateau State against Y, the father of her children. D alleged that since her separation from Y, he has not concerned himself with the welfare or education of the children.

C/2021/6613/PSO

The Commission received a complaint dated 12th April, 2021 from D who resides in Lamingo, Jos, Plateau State, against Y, the father of one of her students. D alleged that as a teacher working at the school where Y's child goes, she is concerned with how Y attends to his child's education. D further alleged that Y lives irresponsibly and fails to properly provide for the child's education.

C/2021/7237-7239/PSO

The Commission received a complaint dated 23rd August, 2021 from D who resides at Bukuru, Plateau State. D alleged that Y, her husband, has neglected the family and has refused to provide for them financially even when they face health challenges. D further alleged that Y has also refused to pay the school fees for their children who are five (5) and two (two).

Media reports on rights of the child

1. On 5th July, 2021 Daily Trust Newspaper on page 10 reported that the police in Kaduna State have rescued a 10-month-old baby allegedly stolen by a teenage housemaid after 48 hours of declaring the baby missing. Daily Trust gathered that the police have reunited the boy with his mother.
2. On 6th July, 2021 Daily Trust Newspaper on page 9 reported that the bodies of two children who went missing two days ago were found on Monday in Gboko LGA of Benue State. The spokesperson for the Benue police, DSP Catherine Anene, confirmed the incident, adding that an investigation into the matter was on.
3. On 8th July, 2021 The Guardian Newspaper on page 13 reported that Lagos State Office for Disability Affairs (LASODA) has sensitised parents and guardians of children with special needs on care for the children.
4. On 8th July, 2021 This Day Newspaper on page 1 reported that the United Nations Children's Fund (UNICEF) has expressed concern over growing attacks on school children, as well as child abductions in Nigeria, with a call on authorities to do more to ensure children can safely live and go to school. UNICEF, in a statement by its Executive Director, Ms, Henrietta Fore, lamented that no fewer than 950 students were abducted in Nigeria since December 2020.
5. On 15th July, 2021 Daily Trust Newspaper on page 29 reported that an Ado Ekiti magistrate court ordered the remand of a 37-year-old man, Musa Nurudeen in the correctional centre for allegedly defiling his 11-year-old daughter.
6. On 15th July, 2021 Daily Trust Newspaper on page 29 reported that a Sokoto State magistrates' court has sentenced one Emmanuel Bassey and his wife to 3 years imprisonment or N275, 000 fine for confining their 12-year-old niece in an unused fridge for eight months. The reason for their action, as gathered by Daily Trust, was that she was mentally unstable which was later proven to be false by the police.

7. On 16th July, 2021 Daily Trust Newspaper on page 39 reported that a 38-year-old man, Ade Tunde, was brought before a chief magistrate sitting at Ogba, Lagos State for allegedly having anal sex with a 13-year-old boy.
8. On 26th July, 2021 Daily Trust Newspaper on page 32 reported that one Yahaya Mohammed has been remanded by an Ilorin magistrate's court for allegedly killing his 10-year-old son, Aliyu Mohammed, with a cutlass for refusing to run an errand for him in Budo Gidi in Baruten LGA of Kwara state. Magistrate Saliu Muhammad has ordered that the defendant be remanded at the correctional facility till August 4, 2021, for further hearing.
9. On 27th July, 2021 The Guardian Newspaper on page 25 reported that in a bid to eradicate the high rate of child abuse and injustice meted out to vulnerable communities, Right Enforcement and Public Law Center (REPLACE) in partnership with European Union and Children and Community Protection Network (CCPN) have provided free legal service in communities.
10. On 27th July, 2021 This Day Newspaper on page 35 reported that a 12-year-old girl, Abibat Saani, has been abducted by suspected kidnappers in Ofosu, Ore, in Odigbo local government area of Ondo State.
11. On 27th July, 2021 Daily Trust Newspaper on page 10 reported that a medical doctor's wife and her friend have been abducted by gunmen at the new GRA in Makurdi Metropolis, Benue State. Witnesses said that the incident happened on Sunday between 6:00 pm to 6:30 pm in front of the home of the doctor's wife's friend.
12. On 28th July, 2021 The Guardian Newspaper on page 8 reported that Mrs Ugwueke with the support of her husband and kids detained Chidalu, a 15-year-old boy for four days without food, beat him up with different objects, and used hot iron on him, leaving grievous wounds on his body. The Guardian learnt that Chidalu, an orphan was taken to serve as a house help.

13. On 28th July, 2021 Daily Trust Newspaper on page 22 reported that a Yaba magistrates' court in Lagos ordered that a 14-year-old boy be remanded in a boys' correctional home defiling a seven-year-old girl.
14. On 28th July, 2021 Daily Trust Newspaper on page 23 reported that the Kaduna State High court commenced the trial of Sani Adamu over the kidnapping of a 6-year-old boy, Mohammed Kabiru, which led to his death.
15. On 1st September 2021, the Daily Trust Newspaper page 226 reported that a magistrate court sitting in Ado Ekiti has ordered the remand of a forty-year-old man, Bejide Emmanuel, at the correctional centre over the alleged rape of his 17-year-old daughter.
16. On 1st September, 2021 The Guardian Newspaper at page 5 reported that the United Nations Children's Fund (UNICEF) has said that malnutrition is the biggest threat to child survival and development in the North East. This was made known in a statement by the Chief Field Officer, Maiduguri, Samuel Sesay, at a three-day Media Dialogue on Child Malnutrition Reporting in Borno State.
17. On 3rd September, 2021, ThisDay Newspaper at page 51 reported that the Federal Government will partner with journalists and the mass media in the campaign to eliminate and prevent child labour in the country. There is also a need to create more awareness of the dangers of child labour, efforts to prevent and eliminate head-headed monsters are now more imperative than ever.
18. On 3rd September 2021, The Guardian Newspaper on page 8 reported that a grade two teacher, Alhaji Usman Galadima, who allegedly defiled 14 pupils of Central Primary School, Karabonde in Niger State has been suspended by the State's Universal Basic Education Board (NSUBEB). The matter is being investigated by the Child Rights Protection Agency.
19. On 7th September 2021, This Day Newspaper at page 26 reported that Nigeria has over 15 million children, especially girls that are out of school. This was confirmed by Rev. Father Stephen Ogbe of Dominican College, Abuja.

20. On 9th September, 2021 Daily Trust Newspaper at page 16 reported that cases of child abuse are becoming rampant in society, as minors are made to work as house helps. This was made known in a write-up by Chika Unigwe.
21. On 13th September, 2021 The Guardian Newspaper at page 6 reported that no fewer than 20 attacks on schools with the abduction of 1,436 children this year. In all of these, 16 children had died while 200 others were still missing. This statement was confirmed by the United Nations International Children's Emergency Fund. (UNICEF).
22. On 17th September, 2021 This Day Newspaper on page 10 reported that President Muhammadu Buhari had declared his administration's commitment to using football as a tool for the development of girl-child, inspiring young people to have rewarding careers in the game.
23. On 9th December, 2021 The Guardian Newspaper page 13 reported that after 15 months of rehabilitation, the Kebbi State Government, reunited an 11-year-old boy, Jibril Aliyu, who was chained along with livestock and left to starve for two years, with his parent in Badariya area of Birnin Kebbi.

Conclusion and Recommendation

In conclusion, the rights of the child are sacrosanct in international, regional and national laws. These laws require a commitment of everyone for children to enjoy their status before adulthood irrespective of where the child stays, whether with his/her biological parents or with caregiver(s).

Until the child's custodians reach the point when everyone truly realizes the unique role of the child in achieving socio-economic development, peace and security in society, we may not be able to get the government to commit wholly to the protection and development of the rights of the child. It is no longer rhetoric that most child rights violations go unchallenged simply because that age cannot exert demand for their rights except with the assistance of a concerned individual and/or organization.

CHAPTER FIFTEEN

TERRORISM AND RELATED VIOLENCE

By

Zarau Abubakar-Abdullahi*

Introduction

Although terrorism has been given different definitions, it is understood as a violent means which is used by persons or organizations to instil fear with a view to achieve political or ideological objectives. Terrorism poses a threat to humanity, human rights, dignity of the human person, democratic values and civilization¹. Nigeria is not left out of all this.

Nigeria has over the years, especially between 2010 when she recorded her first major terror attack², continued to suffer from the menace of terrorism. The country still grapples with incidences of armed conflicts and attacks by non-state armed groups³. Sadly, violent attacks have continued to occur in parts of the country where pastoralists and farmers clash while gunmen attack oil facilities in Niger Delta. The country witnessed incidence of communal/religious conflicts including election related violence which affects the country.

Non-State Armed Groups have continued to attack civilians in parts of the country including Katsina, Kaduna, Niger, Sokoto and Zamfara States.⁴ The existence of big forests that extend across these states has facilitated the perpetration of violent acts of rural banditry by criminal gangs who use the dense forests to terrorize rural areas and commuters on highways thereby killing and kidnapping innocent persons and demand payment for ransoms⁵.

The 2020 Global Terrorism Index reports that the Islamist group Boko Haram, formally known as Jama'atu Ahlis Sunna Lidda'awati wal-Jihad, intensified terror attacks in 2019 leading to thousands of deaths around the Lake Chad Basin region of West Africa⁶. It is

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¹ IN Ezeugo, *The Terror of Terrorism* (Scripture Union Press & Books Ltd, Ibadan 2016) d6ii

² Office of the National Security Adviser-(2016) 'Counter Terrorism Centre, *National Counter Terrorism Strategy*' available online at <<https://ctc.gov.ng/national-counter-terrorism-strategy-2016/>> accessed on 19 April 2020.

³ The 2020 Global Terrorism Index ranks Nigeria as the 3rd most impacted country impacted country by terrorism after Afghanistan and Iraq. (See page 10)

⁴ Institute for Peace and Conflict Resolution, 'Strategic Conflict Assessment of Nigeria' (2016)

⁵ *ibid.*

⁶ Institute for Economics and Peace, 'Global Terrorism Index 2020' 16. Available online at <<https://visionofhumanity.org/wp-content/uploads/2020/11/GTI-2020-web-1.pdf>> accessed 13 April 2022

reported that out of the 1,068-deaths caused by Boko Haram in 2019, 69 per cent happened in Nigeria, while the rest occurred in Cameroon, Niger and Chad⁷. The situation is further compounded with the presence of local franchise of the Islamic State (ISIS)⁸ and the Islamic State West Africa Province (ISWAP).

Apart from these terror attacks, Nigeria witnessed communal and religious crises from the Ti6-Jukun conflict in north Central, the Kaduna religious crisis, Ife-Modakeke conflict in Ogun State and the religious crises in Plateau State. There was also post-election violence that affected parts of the country.

The National Security Strategy 2019 identified kidnapping, armed banditry and militia activities have become very serious threats and constitute about 40 per cent of incidences of national insecurity in Nigeria.

Terrorism and violence in Nigeria affect her economic development, social cohesion as well as lives and human security. The situation affects women, girls, farmers, law enforcement/security officers, custodial centres as well as critical military infrastructure. Other impacts include creation of poverty, non-access to education, sexual and gender-based violence, water, sanitation, healthcare, access to Justice, and nutrition.

This chapter will discuss terrorism and other violence and how these affect the enjoyment of human rights in Nigeria. The chapter will clarify some of the terms that are used for ease of understanding. It will discuss the international and domestic legal framework to combat terrorism and violence in Nigeria including government policies and the role of security and enforcement agencies in tackling the menace.

Conceptual Clarifications/Definition Terrorism

Terrorism is commonly understood to refer to acts of violence that target civilians in the pursuit of political or ideological aims⁹. Although there is yet to be a comprehensive United Nations General Assembly's Declaration on Measures to Eliminate International Terrorism, set out in its resolution 49/60, states that that terrorism includes "criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or

⁷ *ibid.*

⁸ *ibid.*

⁹ Office of the United Nations High Commissioner for Human Rights, 'Human Rights, *Terrorism and Counter-Terrorism*' (Fact Sheet No.32) 5 available online at <https://www.ohchr.org/sites/default/files/Documents/Publications/Factsheet32EN.pdf> accessed on 13 April 2022

particular persons for political purposes” and that such acts “are in any circumstances unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or other nature that may be invoked to justify them.

In the Nigeria, section 1 of the Terrorism Prevention (Amendment) Act 2013 also does not explicitly define “terrorism”. Rather, it prohibits acts of terrorism to include attempt or threat to do an act preparatory to or in furtherance of an act of terrorism, anything that is reasonably necessary to promote an act of terrorism, assisting or facilitating activities of persons engaged in an act of terrorism.

Human rights

Human rights are universal values and legal guarantees that protect individuals and groups against actions and omissions primarily by State agents that interfere with fundamental freedoms, entitlements and human dignity. The full spectrum of human rights involves respect for, and protection and fulfilment of, civil, cultural, economic, political and social rights, as well as the right to development. Human rights are universal; in other words, they belong inherently to all human beings and are interdependent and indivisible.

Violence

The American Psychological Association defines violence as an extreme aggression such as assault, rape or murder.

The context

Terrorism and other violent acts have become a serious challenge in Nigeria. The activities of persons or groups with extreme religious and ethnic inclinations have led to loss of lives and properties in the country. These activities include bombing, suicide bomb attacks, sporadic shooting of unarmed and innocent citizens, burning of police stations, churches, kidnapping of school girls and women as well as other critical government infrastructure. These acts have devastating consequence for the enjoyment of the right to life, health, education, housing, water, sanitation, agriculture, food and human security.

The attacks and violence especially in the Northern part of the country are quite complex and inter-related¹⁰. At its root, the region’s security crisis derives from long-running competition

¹⁰ International Crisis Group, *Violence in Nigeria’s North West: Rolling Back the Mayhem* (Report No. 288/Africa 18th May 2020) available online at <<https://www.crisisgroup.org/africa/west-africa/nigeria/288-violence-nigerias-north-west-rolling-back-mayhem>> accessed 19 April 2022

over land and water resources between predominantly Fulani herders and mainly Hausa farmers, both of whom have over time mobilised armed groups (referred to by the authorities as “bandits” and “vigilantes”, respectively) for protection. Also, climate change-related environmental degradation and high population growth have intensified this struggle. Amid a boom in the trade of small arms and light weapons in the region, organised gangs operating from ungoverned forests have proliferated, engaging in cattle rustling, kidnapping for ransom and armed robbery, including of miners and traders in the largely unregulated gold mining sector, as well as pillage of communities. Having originated in Zamfara state, gang violence has since spread to five other nearby states, namely Kaduna, Katsina, Sokoto, Kebbi and Niger, the last of which is in North Central Nigeria.¹¹

All these have had a far-reaching humanitarian and economic impact on the region and created a domino effect of security problems. Over the last decade, over 200,000 internally displaced and about 60,000 fleeing into Niger Republic. Livestock and crops have been decimated, further depressing human livelihood indices that were already the country’s lowest. Consequently, it is estimated that over 920,000 children in Borno, Adamawa, and Yobe have global acute malnutrition, while over 288,000 have severe acute malnutrition.¹²

The violence is aggravating other security challenges. It has forced more herders southward into the country’s Middle Belt, thus increasing herder-farmer tension in that region and beyond.¹³ Other forms of violence in Nigeria are largely that of ethnicity¹⁴ owing to the country’s pluralist ethnic composure.¹⁵ This can be seen the ethnic/ religious crises from the Tiv-Jukun conflict in north Central, the Kaduna religious crisis, Ife-Modakeke conflict in Ogun State and the religious crises in Plateau State and the post-election violence that affected parts of the country.

¹¹ Ibid.

¹² T Hanna and others, ‘Assessing the Impact of Conflict on Development in North-East’ (United Nations Development Programme, 2020) 24, available online at <https://www.ng.undp.org/content/nigeria/en/home/library/human_development/assessing-the-impact-of-conflict-on-development-in-north-east-ni.html> accessed on 24 April 2022.

¹³ *ibid.*

¹⁴ In most cases ethnic crises turn out to be religious in nature.

¹⁵ M T Aluaigba, *Ethnic Conflicts in Nigeria: Insight into the Tiv-Jukun Ethnic Crisis* (Lambert Academic Publishing Germany 2015) 37.

Effect of terrorism on the enjoyment of human rights

The Office of the United Nations High Commissioner for Human Rights prohibits the negative effect of terrorism¹⁶ as follows:

It threatens the dignity and security of human beings everywhere, endangers or takes innocent lives, creates an environment that destroys the freedom from fear of the people;

Has an adverse effect on the establishment of the rule of law, undermines pluralistic civil society, democratic bases of society, and destabilizes legitimately constituted Governments;

Has links with transnational organized crime, drug trafficking, money-laundering and trafficking in arms, as well as illegal transfers of nuclear, chemical and biological materials, and is linked to the consequent commission of serious crimes such as murder, extortion, kidnapping, assault, hostage-taking and robbery;

Has adverse consequences for the economic and social development of States, jeopardizes friendly relations among States, and has a pernicious impact on relations of cooperation among States, including cooperation for development;

Threatens the territorial integrity and security of States, constitutes a grave violation of the purpose and principles of the United Nations, is a threat to international peace and security, and must be suppressed as an essential element for the maintenance of international peace and security.

Legal Framework

International

The United Nations Security Council (UNSC) by Resolution 1373¹⁷ (“the Resolution”) recognized the need for member States to complement international cooperation by taking additional measures to prevent and suppress, in their territories through all lawful means, the financing and preparation of any acts of terrorism.

The international legal framework is anchored on the policies and action plans for the prevention of violent extremism among which are:

United Nations Security Council Resolutions No 2178 (2014), 2199 (2015), 2250 (2015) and 2349 (2017); Report of the United Nations Secretary-General on Plan of Action to Prevent

¹⁶ Office of the United Nations High Commissioner for Human Rights (n 9)

¹⁷ This Resolution was unanimously adopted on 28th September 2001 by all member states of the United Nations

Violent Extremism dated 24 December 2015; United Nations Global Counter Terrorism Strategy Review; United Nations Global Counter Terrorism Strategy in Assembly Resolution No 68/127 entitled “A world against violence and violent extremism”; and African Union Plan of Action on the Prevention and Combating of Terrorism.

Also, Nigeria has ratified the following international instruments dealing with terrorism:

International Convention against Hostage-taking; Convention for the Suppression of Unlawful acts against the safety of Maritime Navigation; Protocol to the Convention for Suppression of Unlawful act against the Safety of Maritime Navigation; Protocol for the Unlawful Suppression of Unlawful Acts against the Safety of fixed Platform located on the Continental Shelf; Protocol to the Protocol for the Suppression of Unlawful acts against Safety of fixed Platforms located on the Continental Shelf; Convention on the Marking of Plastic Explosive for the Purpose of Detection; International Convention for the Suppression of Terrorist Bombing; International Convention for the Suppression of the Financing of Terrorism. These instruments make it an obligation for member states to adopt substantive criminal and procedural law to counter various acts of terrorism.

Domestic

Constitution of the Federal Republic of Nigeria, 1999 (as amended)

The 1999 Constitution of the Federal Republic of Nigeria as amended under section 14 (2) (b) obligates the government to protect the lives of persons and guarantee their security and welfare. Accordingly, government established security and law enforcement agencies to guarantee the internal security of the country. Although the Nigeria Police Force is the law enforcement institution mentioned by section 214 of the Constitution of the Federal Republic of Nigeria 1999 (as amended) for the maintenance of law and order, other specific law enforcement agencies were created to carry out particular obligations, namely: Department of State Service, Nigerian Military, Nigerian Immigration Service, Nigerian Customs Service, Nigeria Correctional Service, National Drug Law Enforcement Agency, Nigeria Security and Civil Defence Corps. These agencies, either individually or jointly, are involved in guaranteeing the security of the citizenry.

Economic and Financial Crimes Commission (EFCC) (Establishment) Act, 2004

Although, the EFCC Act is established to tackle economic and financial crimes, section 15 of the Act provides for offences in relation to terrorism. This section provides that:

A person who wilfully provides or collects by any means, directly or indirectly, any money by any other person with intent that the money shall be used for any act of terrorism commits an offence under this Act and is liable on conviction to imprisonment for life

Also, section 15 (3) thereof makes it an offence to provide funds, financial assets, economic resources, financial or other related services for use of any other person to commit, attempt to commit, facilitate or participate in the commission of a terrorist act.

Terrorism Prevention Act (TPA) (2013)

The TPA contains provisions including prohibition of acts of terrorism, the procedure for proscribing terrorist organisations, terrorist meetings, support for terrorists, banning the provision of training for terrorists, information about acts of terrorism, international terrorism, suppression of financing of international terrorism and hostage taking.

Nigeria's policies to combat terrorism and related violence

Apart from the laws, Nigeria has put in place policies aimed at combatting terrorism. These policies include:

The National Security Strategy 2014 Reviewed 2019)

The purpose of Nigeria's National Security Strategy (NSS) is to guide, organize and harmonise the nation's security policies and efforts. The Counter Terrorism Centre (CTC) of the Office of the National Security Adviser (ONSA) to the President in 2004 worked on the National Security Strategy which recognizes that while the country must continue to focus on the persistent and evolving terrorist threats, it must at the same time address the full range of potential catastrophic events, including man-made and natural disasters, due to their implications for national security.

The Policy Framework and National Action Plan for Preventing and Countering Violent Extremism in Nigeria 2017

This policy was conceived in order to clearly articulate a broad policy framework to provide direction and coordination for the various initiatives that have been launched to tackle the menace of violent extremism in the country. The policy, under coordination of the office of the ONSA, seeks to ensure that Preventing and Countering Violent Extremism is institutionalized and mainstreamed into mandates of Ministries, Departments and Agencies of Governments, including at States and Local Levels.

The National Counter Terrorism Strategy 2016

The National Counter Terrorism Strategy institutionalized the position of the Counter-Terrorism Centre (CTC) within the ONSA's structure in order to coordinate the implementation of the national counter terrorism strategy and oversee security and intelligence operations in the country. The national counter terrorism strategy is developed around five main work streams, each with specific medium and long-term objectives. The five pillars include: Forestall, Secure, Identify, Prepare and Implement: Forestall- Aims at reducing the risk of radicalization; Secure- Entails the process of raising the security posture of the country in the face of terrorist threats; Identify -Aims at pre-emption through detection, early warning as well as the strengthening of the judicial system; Prepare- Seeks to mitigate the risk of terrorist attacks by increasing the capability of the Government to react to such an occurrence; and Implement- Aims to foster coordination/cooperation at the operational and strategic levels both within and beyond national boundaries.

Conclusion

This chapter has made an attempt to discuss the effect of terrorism in Nigeria and the effort of government to fight this menace. It has shown that in spite of the legal and regulatory framework including policies that have been put in place to combat terrorism, this menace has led to destruction of properties, death, displacement and deepening of poverty. This is a challenge on the obligation of government to guarantee the welfare and security of all persons in Nigeria. The government must therefore renew its efforts to ensure that the security and welfare of all persons is a paramount obligation.

CHAPTER SIXTEEN

CORRUPTION AND GOOD GOVERNANCE

By
Isioma N Nwosa*

Introduction

Corruption is as old as human history and a global phenomenon.¹ Corruption has existed from time immemorial and still persists in almost every country around the globe. Within the last decade, the issue of corruption and good governance has taken the centre stage in development discourse worldwide. According to Aluko, corruption is not the exclusive preserve of any nation, race or part of the world but transcends national boundaries and frontiers and symbolizes phenomenal universal unwholesomeness politically.² It is evident in various nations such as United States of America, China, Canada, Nigeria, Australia and United Kingdom etc. However, the manner by which a country combats this threat determines the extent of corruption among nations. Some countries take it seriously and battle it aggressively, while others do not, either due to indifference, autocracy, or because it has developed into a lethal cancer that cannot be eliminated without catastrophic consequences for people who are exposed to it. This menace has led to situations like slow movement of files in offices, extortion by police, port congestion, queues at passport offices and petrol stations, ghost worker's syndrome, election irregularities, among others. Corruption affects security of a country, education sector, health sector, transport sector and overall development of a country.

This chapter will discuss the correlation between corruption, good governance and its effects on the enjoyment of Human rights in Nigeria. Human rights such as civil rights and political rights are basic, inherent, fundamental natural and inalienable right of human beings. The purpose of securing human rights as such are to provide protections to these rights against the abuses of power by state organs to establish institutions for the promotion of living of human beings and for obtaining redress in the event of violation of these rights. There is a conceptual

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¹ International Monetary Fund, 'Corruption around the world: causes, consequences, scope, and cures' (1998) IMF working paper.

² A A Yetunde, 'Corruption in Nigeria: Concept and Demission in Anti-corruption Reforms in Nigeria since 1999: issues, challenges and the way forward' (2009) 6ol. 3 IFRA special Resources issues.

linkage between corruption and human rights. Corruption and the violation of human rights comprise social phenomenon which concerns the distribution of benefits among different groups of people and individuals. Corruption is an important contributing factor to the violation of human right by facilitating, serving or creating an environment in which the violation can take place. The abuse of human rights will be persistent if corruption does not cease.³

Corruption in Nigeria is not a new occurrence. It has been present in the country since colonial times. It erodes our democratic institutions and slows economic growth. This phenomenon has become a cankerworm that has eaten deep into the fabrics of our system.⁴ Nigeria is still grappling with the issue of effective administration, despite its many years of independence. Lack of vision, political wrangling, and, most importantly, rampant corruption has characterized the country's leadership, which has become a major threat to the country's future. Indeed, Corruption is at the core of the crisis in issues such as governance and legitimacy, the establishment of a sustainable democratic order, rule of law, national development, and the welfare of the citizens. Corruption is the major explanation for the seemingly insoluble problems of poverty, diseases, hunger and general acute development tragedy in Nigeria.⁵ Nigeria ranks 154th out of 180 countries in the 2021 corruption perception index⁶ which reflects poorly in the International community.

The concept of good governance came to the fore in the 1990s against the backdrop of the failure of adjustment policies and with a view of developing a new recipe for enhancing the efficiency and capacity of governments to deliver. The World Bank, UNDP, as well as many other key international players, promoted the good governance paradigm as another side of economic liberalization coin.⁷ Good governance embodies the degree to which the government delivers on the promise of human, civil, cultural, economic, political and social rights. It ensures corruption is minimised, the views of the minorities are taken into account, the voices of the most vulnerable in the society are heard in decision making and it is

³ The effect of corruption on human right health available online at: <https://www.ohchr.org/en/good-governance/corruption-and-human-rights> accessed on 17 August 2022.

⁴ S Muhammed, 'Corruption in Nigeria: A Challenge to Sustainable Development in the Fourth Republic' (2013) European Scientific Journal, 118-137

⁵ I S Ogundiya, 'Political Corruption in Nigeria, Theoretical Perspectives and some Explanations' (2008) Bol. 11 No. 4 The Anthropologists 255-265

⁶ Transparency International, 'The Global Coalition Against Corruption' available online at: <https://www.transparency.org/en/countries/nigeria> accessed on 8th August, 2022

⁷ The Economic and Social Commission for Asia and the Pacific (UNESCAP), available online at: www.unescap.org/pdd/prs/ProjectActivities/Ongoing/gg/governance.asp accessed on 21st April, 2022

responsible to the present and future needs of society and the nation at large.⁸ The Chandler Institute of Governance serves as the international ranking body for good governance of which Nigeria ranks as the third worst country in its inaugural good government index.⁹

Corruption and good governance are two-way causal concepts that feed off one other in a vicious cycle. If appropriate governance concepts and processes are not in place, corruption is more likely to occur. Corruption, in turn, can make it difficult to implement or enforce good governance concepts and processes. Corruption appears to be most directly linked to violations of the ideals of transparency, accountability, and the rule of law. Corruption and weak governance, in the end, are security threats that jeopardize democracy, the rule of law, and economic prosperity.

Clarification of Terms / Definitions

Corruption

The concept of corruption has been elusive in many dimensions, due to the lack of uniform definition.¹⁰ What is regarded as corruption depends on the existing national laws and regulations guiding certain actions. Some countries define corruption in the broadest form, while others legislate on the narrow definition of the term. However, from an etymological dimension, the word corruption comes from the Greek word “corruptus” meaning an aberration or a misnomer.¹¹

Broadly speaking, corruption is a term used to describe acts that are considered immoral, such as fraud, graft, bribery, stealing, perjury, lying, dishonesty, indiscipline, and debased acts like sexual immorality or perversion. Corrupt acts also include economic and financial crimes, nepotism, favouritism or discrimination and partiality in decision-making or allocation of values. Corruption thus represents degeneration from the normal, that is, an anti-social behaviour.¹²

The International Monetary Fund (IMF) and World Bank describe corruption as “the abuse of public office for private gains”. Public office is abused for private gain when an official

⁸ I S Ogundiya, ‘The Bane of Democratic Stability in Nigeria’ (2010) 12(1) *Current Research Journal of Social Sciences* 233-241

⁹ Chandler Institute of Governance available online at <https://www.chandlerinstitute.org> accessed on 8 August 2022

¹⁰ S T Akindele, ‘Corruption: An Analytical Focus on the Problems of its Conceptualization’ (1995) *Ifè Psychologia*

¹¹ CLEEN Foundation, ‘Corruption and Governance Challenge’ available online at <http://www.cleen.org/CorruptionandGovernanceChallenges> accessed on 16 April, 2022

¹² J Huther and A Shah, ‘Anti-Corruption Policies and Programmes: A Framework for Evaluation (Washington: World Bank Policy’ (2000) Research Working paper 2501.

accepts, solicits or edtorts a bribe. It is also abused when pribate agents actibely offer bribes to circumbent public policies and processes for competitibe adbantage and profit. Public office can also be abused for personal benefit eben if no bribery occurs, through patronage and nepotism, the theft of state assets or dibersion of state rebenue”.¹³ The Independent Corrupt Practices and other related offences Commission (ICPC) Act 2000¹⁴ define corruption “to include bribery, fraud and other related offences”.

The concept of good governance

The concept of gobernance has many definitions. To the World Bank¹⁵, gobernance refers to how power is edercised in the management of a nation’s economic and social resources for debelopmental purposes. This inbolbes three applications; “the form of the political regime; the process by which gobernal power is edercised in the management of a country’s economic and social resources; and gobernal capacity to implement public policies”. Good gobernance is deribed from the concept of gobernance. According to Adeosun¹⁶ good gobernance entails the capacity to manage a country’s resources in a transparent, accountable, ekuitable manner, in response to the needs of the people. A good aspect of this biew is the need to recognize and respond adekuately to the aspirations of the citizens.

According to UNDP¹⁷ good gobernance encompasses the edercise of political, economic, legal, judicial, social, and administratibe authority in a manner that meets the aspirations and needs of the citizens. This includes; the gobernal, the pribate sector and the cibil society. It also includes the formulation of policy initiatibes that would strengthen institutions and the cibil society organizations with the main objectibe of making gobernal responsible more democratic responsibe and accountable.

The whole essence of good gobernance is the supremacy of the rule of law, freedom, accountability, transparency, fulfilment of election promises, and the achiebement of the greatest good for the greatest number of citizens. As good and important as good gobernance is to the Nigerian state, much of the bariables habe eluded the nation due to corruption.

¹³ World Bank, aavailable online at:<<http://www.worldbank.org/wbr/gobernance>> accessed on 16 April 2022

¹⁴ ICPC Act 2000, s2

¹⁵ World Bank, ‘A Strategy for Capacity Building in Accounting, Auditing, and Financial Management in Sub-Saharan Africa’ (Cambridge Uniibersity Press York 1997) 13

¹⁶ A B Adeosun, ‘Nigeria@50: The Role of Good Gobernance and Effectibe Public Administration towards Achiebing Economic Growth and Stability in Fledging Democracy’ (2012) Bol. 3 No. 3 International Journal of Politics and Good Gobernance 30-37.

¹⁷ UNDP, ‘Gobernance for Sustainable Human Debelopment’ (1997) United Nations Debelopment Programme New York

In conceptualization of good governance, it is pertinent to have a cursory look at the concept of bad governance. Bad governance is centralised around the idea of not only corruption within a system but a lack of transparency and accountability, arbitrary policy making and the cheating of those who are governed. The Universal Declaration of Human Rights (UDHR)¹⁸ provides an interconnection between good governance, human rights and sustainable development; “A comprehensible economic, social and political process, which aims at the constant improvement of the wellbeing of the entire population and of all individuals, in which human rights and fundamental freedom can be fully realized”. This provision implies that without good governance and the existence of corruption the human rights of the citizens are endangered.

The concept of human rights

Human rights are standards that recognize and protect the dignity of all human beings. Human rights govern how individual human beings live in society and with each other, as well as their relationship with the State and the obligations that the State have towards them.¹⁹ The term human rights denote all rights which are inherent in our nature and without which we cannot live as human beings. Human rights such as civil rights and political rights are basic, inherent, fundamental natural and inalienable right of human beings. However, one tends to forget the most fundamental human right to life and safety. These human rights include justice, tolerance, mutual respect and above all human dignity. They are considered indispensable for dignified human life.²⁰

Legal Framework

The prevalence of corruption in Nigeria necessitated the adoption of certain laws; international, regional and local with the establishment of certain agencies to curb the menace of corruption. Nigeria is a subscriber to numerous treaties and a number of organizations which serve as watch dog to curb corruption. Nigeria has signed and ratified International and regional instruments on Anti -Corruption.

International

United Nations Convention against Corruption (UNCAC) (2005)

¹⁸ Universal Declaration of Human Rights (UDHR) 1948.

¹⁹ UNICEF available online at <https://www.unicef.org/child-rights-convention/what-are-human-rights> accessed on 17 August, 2022

²⁰ The effect of corruption on human right health available at <https://www.ohchr.org/en/good-governance/corruption-and-human-rights> accessed on 17 August 2022.

The *United Nations Convention against Corruption (UNCAC)* is a landmark, international anti-corruption treaty adopted by the UN General Assembly on 31st October 2003. It is widely accepted as the global framework guiding the fight against corruption.²¹ The UNCAC provides a framework for countries to adapt both their civil and criminal law in order to facilitate tracing, freezing, confiscating, and returning funds and other property obtained through corrupt activities.

Regional

ECOWAS Protocol on the Fight against Corruption, (2001)

The Economic Community of West African States (ECOWAS) adopted the ECOWAS Protocol on the Fight against Corruption in December 2001. The Protocol, among other things, aims to promote and strengthen the development in Member States effective mechanisms to prevent, suppress and eradicate corruption.²²

African Union Convention on Preventing and Combating Corruption (AUCPCC) (2003)

The African Union Convention on Preventing and Combating Corruption (AUCPCC), adopted in July 11, 2003 is a shared roadmap for Member States to implement good governance and anti-corruption policies and systems.²³

African Charter on Democracy, Elections and Governance (ADC) (2007)

The African Charter on Democracy, Elections and Governance (ADC) is a document adopted by Member States of the African Union (AU) on January 30, 2007, in order to promote liberal democracy and human rights in Africa. It is the first binding document adopted by members of the African Union.

Municipal

The Nigerian government has taken bold steps in combating corruption. This is evidenced by the passage of laws. The legislation is either wholly exclusive or partly targeted to fight corruption in Nigeria.

The Advanced Fee Fraud and Other Related Offences Act, 2006²⁴

²¹ Available at https://www.unodc.org_Convention_Against_Corruption accessed on 7 November 2022

²² <https://parl.ecowas.int/international-anti-corruption-day-2021-theme-your-right-your-role-say-no-to-corruption-a-message-from-the-honorable-speaker-of-the-ecowas-parliament/> accessed on 7 November 2022

²³ Promoting African union convention preventing combating corruption available at <https://www.transparency.org> accessed on 7 November 2022

²⁴ Advanced Fee Fraud and Other Related Offences Act, 2006 Decree No.13 of 1995 Act Cap A6 LFN 2004

The Advance Fee Fraud and other Fraud Related Offences Act of 2006 is “An Act to Prohibit and punish certain offences pertaining to Advance Fee Fraud and other fraud related offences and to repeal other Acts related therewith.”

Banks and Other Financial Institution Amendment Act, 2020

This Act, among other things, regulates banking and business of other financial institutions by prohibiting the carrying on of such businesses in Nigeria except under licence and by a company incorporated in Nigeria.

Money Laundering (Prevention and Prohibition) Act, 2022

The Money Laundering (Prevention and Prohibition) Act, 2022 (the Act or MLA 2022) which repeals the Money Laundering (Prohibition) Act, No. 11, 2011, contains elaborate provisions on the legal and institutional framework for the prevention and prohibition of money laundering in Nigeria.

There are other laws in place to fight corruption in Nigeria some of these selected laws include: The Independent Corrupt Practices and Related Offences Commission (ICPC) Act, 2000²⁵, The Economic and Financial Crimes Commission (EFCC) Act, 2004²⁶, Code of Conduct Bureau and Tribunal Act 2004²⁷, Penal Code Laws of the Federation of Nigeria, 2004²⁸, Criminal Code Laws of the Federation of Nigeria, 2004²⁹, The Fiscal Responsibility Act, 2010³⁰, The Freedom of Information Act, 2011³¹, The Administrative Criminal Justice Act, 2015, The Whistle Blowers Act, 2017 and The Proceed of Crimes Act, 2019.

In addition to the above mentioned laws, the Federal Government of Nigeria has put in place the under listed Anti- Corruption Policies:

The National Anti- Corruption Strategy (2017-2021), The Integrated Payroll and Personnel information system (IPPIS), The Treasury Single Account and The Nigerian Extractive Industries Transparency Initiatives.

Root Causes and Effect of Corruption on Good Governance on Human Rights

There is no doubt that at the root of corruption in Nigeria is the virtual collapse of governance, the whittling down of democratic values, the erosion of accountability procedures and the prevalence of bad leadership. Thus, the consequences of corruption can be

²⁵ ICPC Act, 2000 Cap C31 LFN 2000

²⁶ EFCC Act, 2004 Cap E1 LFN 2004

²⁷ Cap C15 LFN 2004

²⁸ Penal Code Laws of the Federation of Nigeria, 2004, Cap P3 LFN 2004

²⁹ Criminal Code Laws of the Federation of Nigeria, 2004, Cap C28 LFN 2004

³⁰ Fiscal Responsibility Act, 2010 Cap 40 LFN 2014

³¹ Freedom of Information Act, 2011 Cap A2 LFN 2004

disastrous. There is no doubt that the scourge of corruption has impacted governance significantly in developing countries where it is mostly perpetrated.³²

Corruption undermines the legitimacy of government and democratic values of trust and tolerance. Corruption increases the cost of business through the price of illicit payments. It generates economic distortions in the public sector by diverting public investment into capital projects where bribes and kickbacks are more plentiful. Corruption also lowers compliance with construction, environmental, or other regulations, reduces the quality of government services and infrastructure, and increases budgetary pressures on government.³³ The effect of corruption is grave that many organisations have been established to monitor corruption and promote efforts to reduce it in governance globally.

Corruption causes a reduction in quality of goods and services available to the public, as some companies could cut corners to increase profit margins. Corruption affects investment, economic growth, and government expenditure choices; it also reduces private investment and fuels inflation.³⁴

Furthermore, corruption contributes significantly to mass poverty in Nigeria. It has rendered several millions of Nigerians jobless and uneducated. There is no doubt that corruption has been attributed to mass poverty which has been breeding all forms of extremism in the country, most especially the Niger-Delta crisis and the recent Boko Haram insurgency which has threatened the security, unity and co-existence of Nigeria as a nation-state.³⁵

Corruption negatively impacts the enjoyments of all human rights; civil, political, economic, social and cultural as well as the right to development which underscores the indivisible and interdependent nature of human rights. Corruption can affect human rights as an obstacle to their realization in general and as a violation of human rights in specific cases.

On the other hand, the relationship between good governance and corruption is such that where one exists the other doesn't. Therefore, good governance is an important concept which should exist in any society because it results in a direct attack against corruption. Thus,

³² J O Fatile, 'Corruption and Challenges of Good Governance in Nigerian Public Sector' (2012) *Africa's Public Service Delivery and Performance Review*, 1(3) 46

³³ G Adesuyi, 'Corruption: The Biggest Industry: ICPC Chairman' *Daily Sun Newspaper* (Lagos 13 February 2013) 13

³⁴ K Familoni, 'The Political Economy of Corruption' in Lai Olurode and Remi Anifowose (eds), *The Rich but Poor: Corruption and Challenges of Good Governance in Nigeria* (Faculty of Social Sciences University of Lagos 2005) 39-63

³⁵ E Chukwemeka, and others 'Curbing Corruption in Nigeria: The Imperatives of Good Leadership' (2012) *African Research Review: An International Multidisciplinary Journal* 338-358

in a country where good governance is not perceived merely as recycled politics, but as a subconscious effort between government, private sector and different civil organization to ensure that the views of the minorities are taken into account, the voices of the most vulnerable in the society are heard in decision making and proper accountability of the sector would amount to a survival of the concept of good governance.

Some of the Complaints Received by the Commission on Corruption and Good Governance are as Follows:
NHRC/NGSO/2021/069

The Commission received a complaint dated 14th February, 2021 from DY, a registered organization, against the Niger State Police Command, Minna. DY alleged that their Chairman and Secretary were inhibited by the Niger State police command on 10th February 2020, on allegations labelled against them by another organization and were detained for several hours before being granted bail after paying the sum of five thousand naira only (N5, 000).

JG /2021/048

The Commission received a complaint dated 22nd June, 2021 from D of Dutse Metropolis in Jigawa State. D alleged that a lady informed her that her mother was accused of witch craft on 20th June 2021 and the matter was reported to the Police Out-Post, Dundubus, Jigawa State. D stated that upon getting there, her mother had already been questioned and the police requested the sum of thirty thousand naira (N30, 000) from the victim to be granted bail.

Conclusion

Corruption is a hydra headed monster which in Nigeria still persists despite the government's attempt to solve this problem internally. This is evident from the various initiatives such as establishment of Anti-Corruption Units (ACTU) in the various agencies and parastatal such as SERBICOM, in Ministries, Departments and Agencies (MDAs) of government and E-government policies such as Remita etc.

Corruption and good governance are intertwined causal concepts that feed off one other in a vicious spiral. Where corruption exists it mirrors poor governance, which in turn leads to the endangerment of the citizen's human rights. Despite the effort by the Nigerian government there is still fast and consistent repetitive infringement of human rights of citizens and if

stringent measures are not taken and corruption faced with loggerhead human rights of citizens would unaboidably become the target.

Recommendations

The following recommendations below are giben to checkmate Corruption in Nigeria:

One of the major edplanations for the failure of all deβelopment programmes in Nigeria has been the absence of effectibe accountability and transparency efforts that would ensure good goβernance. A sustained culture of accountability and transparency by bodies such as the Media, anti-graft agencies and relebant (MDAs) of goβernment etc. will help Nigeria to consolidate its democratic gains and ensure good goβernance.

A good way to go in the fight against corruption would be to rebamp and strengthen Nigeria's law enforcement agencies and enforce implementation of anticorruption legislation. There is a need to recognize the current high rate of impunity, the lack of political will on the part of goβernment) to fight corruption and the near-collapse of law and order in the country so as to curb the menace.

Furthermore, Corruption is a social problem. Thus, citizens must be properly informed and reoriented of its destructibe conseβuences, through mass enlightenment campaigns targeted at the grassroots by the Media and relebant (MDAs) of goβernment etc. Similar to the saying "Charity begins at home", corruption needs to be attacked from the smallest unit of the family. Also, Anti-Corruption Agencies in Nigeria should be strengthened and linked with other international anti-corruption bodies to build capacities and monitor international collaborators towards corruption free society. Agencies such as the National Human Rights Commission should take a frontline in the fight against corruption by liaising with the federal goβernment to mainstream Human right into all goβernment programs and policies to promote good goβernance which will create an enabling enβironment for the enjoyment of human rights of its citizens.

CHAPTER SEVENTEEN

ACCESS TO JUSTICE AND INDEPENDENCE OF THE JUDICIARY

By

Mariam A. Kadiri*

Introduction

Access to justice is an essential instrument for human rights and the rule of law. It is a core principle of human rights going back in time. It implies equal and right access to social distributive justice and refers to the substantive and procedural mechanisms existing in any particular society attaining coexistence in the country. It is inextricably tied to the principle of independence of the judiciary because an independent and fair judiciary ensures that there is equal access to justice for everybody. The effectiveness of a country's judicial system can be measured by the efficacy of its access to justice. Access to justice focuses on the existing rules and procedures to be used by citizens to approach the courts for the determination of their civil rights and obligation'.³⁶

This chapter deals with the concept of access to justice in Nigeria's civil and criminal justice systems and examines the factors affecting it, notably delays and corruption while studying the various domestic, international and regional laws that guarantee access to justice for Nigerians. The chapter is structured in four segments, the first segment defined access to justice and analyses the impediments in accessing justice in Nigeria.

The second segment discusses the legal framework to access justice both the international, regional and municipal laws, while critically analysing some of the provisions of the 1999 Constitution of the Federal Republic of Nigeria and the Administration of Criminal Justice Act 2015. The third segment looked at the independence of the judiciary and the problems affecting it, while the fourth segment discusses the conclusion and recommendation.

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³⁶ United Nations, 'United Nations and the Rule of Law' available at <https://www.un.org/ruleoflaw/thematic-areas/access-to-justice-and-rule-of-law-institutions/access-to-justice/> accessed 8 September 2022.

Conceptual Clarification of Terms

Access to Justice

‘Access to justice is defined as the ability of people to seek and obtain redress through formal or informal institutions of justice for grievances in compliance with human rights standards. It refers to the substantive and procedural mechanisms existing in any particular society designed to ensure that citizens have the opportunity of seeking redress for the violation of their legal rights within that legal system’³⁷. It has also been described to include a proper adjudicatory mechanism that should be accessible in terms of distance, affordability and speed. Administration of justice should not be laborious, indolent and frustrating for those who seek justice that it dissuades or deters them from considering resort to that process as an option. The quality of the legal advisers that assist the litigant, the moral quality of the dispenser of justice, and the delay in the adjudication process due to the overworked and understaffed judicial system, lead to delays in the completion of the process of adjudication.³⁸ Access to justice has been a failure in Nigeria, it’s a mirage to majority of people in their search for justice. This is because most people are unaware of their fundamental human rights and when such rights are being violated, where are aware of their rights, they may not know the institution to approach to seek redress nor the courage to sue the powers that be.

Where they are courageous enough to prosecute, they may be too poor to embark on prolonged and costly litigation. This makes them vulnerable to denial, abuse, deprivation, and violation of their rights by officials of government and individuals or groups. It also makes them victims of extortion, exploitation, corruption, Sexual abuse, harassment, and brutality from security personnel as well as domestic violence.³⁹

Lack of equality of rights, corruption from all participants in the administration of the justice system, namely the police, the judiciary, legal practitioners, litigants, and prison officials, poverty, and delays in justice redress mechanisms are all obstacles affecting access to justice in Nigeria.⁴⁰

³⁷ C C Ani, ‘Access to Justice in Nigerian criminal and civil justice system’ available online at <<https://legalpediaonline.com/access-to-justice-in-nigerian-criminal-and-civil-justice-systems>> accessed 18 April 2022

³⁸ B Angwe, available online at <‘Access to Justice and Protection of Rights of Citizen’ available online at <https://nji.go6.ng/images/Workshop_Papers/2017/Refresher_Magistrates/s5.pdf> accessed 18 March 2022

³⁹ C C Ani (n2)

⁴⁰ ibid

Another impediment to access justice is the difficulty in enforcing judgements. Judgement creditors find themselves in the unenviable position of having to struggle to ensure that judgements given in their favour are enforced. In a scenario where a judgement debtor is a government agency, Section 84 of the Sheriff and Civil Process Act which grants the Attorney General some discretion to determine whether certain judgment of Court may be enforced in respect of a Public Officer, has proved a major challenge in the enforcement of judgement of courts which does little to foster confidence and believe in the judicial system.

A practical example of this is a complaint currently before the Commission in which the complainant received judgement in his favour over a decade ago and he has been unable to enforce the judgement till date. Hearing stories of this nature does little in giving the impression that access to justice is not a practicable concept in Nigeria today.

Legal Framework

International

The Universal Declaration of Human Rights states that everyone is entitled to equal protection of the law and must be presumed innocent until proved guilty in a fair and public hearing by an independent and impartial tribunal and no one should suffer arbitrary arrest, detention or exile.⁴¹ Article 9 (3) of the International Convention on Civil and Political Rights provides that anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or released.

The UN Declaration of High-Level Meeting on the Rule of Law, the UN Principle and Guidelines on Access to Legal Aid in Criminal Justice System, as well as Goal 16 of the Sustainable Development Goals (SDGs) enjoin member-states to take all necessary steps to provide fair, transparent effective, non-discriminatory and accountable access to justice for all including legal aid.⁴²

At the regional level, Article 3 of the African Charter on Human and People's Rights also states that every individual shall be equal before the law and shall be entitled to equal protection of the law. Article 7 emphasize that every individual has the right to have his cause heard. However, the COVID-19 Pandemic laid bare significant deficits and inequalities in the

⁴¹ Article 9 (1)

⁴² United Nations and the Rule of Law available online at <<https://www.un.org/rulcoflaw/thematic-areas/access-to-justice-and-rule-of-law-institutions/access-to-justice>> Accessed on 17 April 2022> accessed 22 August 2022.

progress towards fulfilling the promise of UN Sustainable Development Goal 16 to 'provide access to justice for all. The Pandemic has created new challenges for justice for all by 2030.⁴³ It strained the capacity of justice delivery, brought delays in the resolution of disputes, due to social distancing, other public health measures and poor communication with clients⁴⁴.

Domestic

The 1999 Constitution of the Federal Republic of Nigeria (as amended) is the supreme law of the country and has made several provisions for the protection of the offender's right to access justice. These rights are provided under Section 36 (4). This section states that when a person is charged with a criminal offence, he is entitled to be tried in public within a reasonable time by a court or tribunal. Other rights covered by section 36(4) – (12) include: right to be presumed innocent until proved guilty, right to be promptly informed in the language they understand of the nature of the offence, right to be given adequate time and facility to prepare for their defence, right to an interpreter, right to defend themselves, right to copies of judgement, right to protection against double jeopardy, right not to be compelled to give evidence in court, right not to be convicted of an unwritten offence and so on.

Section 35 (4) of the Constitution further provides that a person who is arrested or detained by the police should be brought to court within a reasonable time and if he is not tried within two months or three months from the date of arrest or detention, he should without prejudice to any further proceedings that may be brought on him be released either conditionally or upon such conditions as are necessary to ensure that he appears at a later date. It goes further to state where there is a court within 40 kilometres radius, the trial of such a person should be within 24 hours and in any other case a period of two days or such longer period considered reasonable by the courts.

This foregoing provision of the law has led to people being detained for longer periods without access to justice. Section 36 (6) (b) provides that every person charged with a criminal offence shall be entitled to be given adequate time and facility to prepare for his defence, this provision of the law has been abused and misinterpreted by the courts, the application of this

⁴³ World Justice Project available online at <<https://worldjusticeproject.org/world-justice-challenge-2021/access-justice-all>> accessed 17 March 2022.

⁴⁴ *ibid*

rule should not ordinarily result in undue delay, but it has often resulted in prolonged delays.⁴⁵

The Constitution fails to provide adequate provisions guaranteeing access to Counsel for the poor. The provision of Section 17 (2) (a) of the Constitution that states that every citizen shall have equality of rights, obligations and opportunities before the law seems to be a mere fiction invented to comfort the poor and underprivileged in Nigeria because the majority of people charged with crimes cannot afford private Counsel. There is no provision in the Constitution guaranteeing access to Counsel for the poor. Section 46(4)(b) appears to be a dormant provision, till date there is no known legislation that provides for financial assistance for the poor.

The Legal Aid Council of Nigeria (LACON) Act 2011 statutorily mandates the Council to provide free legal services to the indigent, economically deficient, and less privileged citizens, aimed at reducing to the barest minimum incidents of human rights abuses perpetrated against Nigerians. However, many Nigerians are unaware of the existence of the Council, while those who are aware are sceptical about its ability to deliver on its mandate. The Council is understaffed and underfunded and this affects the effectiveness and efficiency of delivering on its mandate. The office of the Attorney General in conjunction with the management of the Legal Aid Council launched the 'ACCESS TO JUSTICE FUND' aimed to raise funds for the assistance of legal aid work in the country. Once this fund becomes operational it will go a long way in improving services rendered by the Council to the public.⁴⁶

Furthermore, the Administration of Criminal Justice Act (ACJA) (2015) main purpose is to promote efficient management of criminal justice institutions and speedy dispensation of justice, protect the society from crime, and protect the rights and interest of the defendant and the victim. The Act brought about some major reforms in the administration of criminal justice in Nigeria, some of these reforms are: it deleted the provision of section 10 (1) of the Criminal Procedure Act that has been abused by the police who use it as a ground to arrest people indiscriminately.

Section 7 of the ACJA specifically prohibits arrest in lieu; arrest of a suspect relative or friends. Section 167 (3) allow women to stand as sureties. This provision is commendable as

⁴⁵ O A Grace available online at <<https://legalideasforum.com/access-to-justice.html>> accessed 19 April 2022

⁴⁶ A E Malami, 'Tasks Legal Aid Council on equal Access to Justice', *Thisday Newspaper* (Lagos 13 October 2020).

it is in line with the 1999 Constitution and the Convention on the Elimination of Discrimination against Women (CEDAW). Section 106 of ACJA stipulates that prosecution of all offences in any court shall be undertaken by the Attorney-General of the federation or a law officer in his ministry or department. Also, the use of lay prosecutors has contributed to the delay of criminal trials in Magistrates' courts which ordinary ought to be courts of summary jurisdiction.

Section 396 provides for speedy and makes provision for the day-to-day trial of criminal cases in line with the provision of the Constitution. Where day-to-day trial is impracticable after arraignment, parties shall only be entitled to five adjournments each

The ACJA in sections 453, 460 and 468 attempt to address the problem of excessive use of imprisonment as a disposal method by introducing some alternatives to imprisonment by way of non-custodial sentence methods. These include introduction of suspended sentence, community service, parole and probation, among other reforms.

Independence of the Judiciary

Judicial independence is the principle that the judiciary should be independent of other branches of government and other private interests. This principle is largely reinforced by the well-acclaimed separation of powers. It is the cornerstone of a democratic society and safeguards the freedom and rights of citizens under the rule of law. The judiciary should be liberated, strong, and well-motivated; it should be independent in every sense of the word and well equipped to dispense justice to all and sundry without hindrance or prejudice.⁴⁷

Judicial independence refers to the non-interference of the executive, legislature, or other private entities in judicial affairs. Thus, the judiciary should be politically insulated from the legislature and the executive power. In other words, the courts should not be subject to improper influence from other branches of government or private or partisan interests.

A judiciary that dispenses and is seen to dispense, fair and impartial justice, efficiently and effectively is a prerequisite for unhindered access to justice for litigants.⁴⁸

⁴⁷ E W Idahosa, Independence of The Judiciary: A recipe for true Democracy in Nigeria, by The Nation 16 February 2022, available online at <<https://thenationonline.ng/independence-of-the-judiciary-a-recipe-for-true-democracy-in-nigeria-2/>> accessed 17 April 2022

⁴⁸ L Kehinde, Achieving Judicial Independence in Nigeria, published 11 March 2021 available online at <<https://www.linkedin.com/pulse/achieving-judicial-independence-nigeria-leke>> accessed on 17 April 2022.

While the federal judiciary enjoys some financial independence with regards to recurrent expenditure like payment of salaries, but the state judiciary scraps round the executive table to sustain its role in nation building. This absence of real financial autonomy undermines the concept of judicial independence, a fall out of which breeds state corruption of the judiciary. This has been taken care of with the Presidents Executive Order authorizing the Accountant – General of the federation to deduct the money due to the State judiciary from the monthly allocation of any State whose Governor fails to remit money to the State judiciary.⁴⁹

Fiscal independence and accountability are vital to the development of the judiciary in Nigeria. The judiciary must also have decisional independence. To this extent, judges should be able to decide cases solely based on the law and facts without letting the media, politics, or other concerns sway their decisions or fear penalty in their careers for their decision. Despite the strong constitutional and statutory protections for the appointment, removal, financial security, and some administrative control by the judiciary in the conduct of its affairs, judges are removed with ease at the prompting of the executive.⁵⁰

The independence of the judiciary is the cornerstone of a democratic society and safeguards, the freedom and rights of the citizens under the rule of law. Judges must be free to make impartial decisions based solely on law and facts without interference, pressure, or influence. The judicial system must be publicly perceived as impartial in rendering decisions. Judges should not have a personal interest, whether due to liberty and corruption or as a result of political pressures in the outcome of disputes between parties and government. When, they do, access to justice by the citizenry is compromised.

Some of the Complaints Received by the Commission Access to Justice and Independence of the Judiciary are as Follows;

GSO/C/2021/330

The Commission received a complaint dated 29th December, 2021 from Y Gombe against an Assistant Commissioner of Police (ACP) in Gombe State. Y alleged that on 15th December, 2021 at 8:15am while the ACP was driving, he lost control and killed his two children walking along the road. Y further stated that efforts to ensure that he gets the officer prosecuted proved abortive.

⁴⁹ E W Idahosa, (n11).

⁵⁰ A C Chenyere, available online at <<https://legalpediaonline.com/access-to-justice-in-nigerian-criminal-and-civil-justice-systems/>> accessed on 18 April 2022.

C/2021/CPR/69/AKR

The Commission received a complaint dated 2nd June, 2021 from Y1 who lives at New Jerusalem, Awule, Akure, Ondo State accusing Y2 of threat to life. Y1 alleged that Y2 had been threatening his life and that of his younger brother over a long time. Y further stated that few days before the recent threat, Y2 brought some thugs to his house to pick him and his younger brother up, but they managed to escape. He further stated that he reported the matter to the police, but unfortunately the police did not take the matter up.

Media report of access to justice and independence of the judiciary

1. On 2nd August 2021, This Day Newspaper at page 52 reported that the Edo state Governor, Mr. Godwin Obaseki, said the state government was collaborating with the judiciary and National Agency for the Prohibition of Trafficking in Persons (NAPTIP), to ensure conviction of traffickers. He added that they will be working with judiciary to try and reduce the long adjournments and also the way they treat evidence from victims as many victims are afraid of giving information on their traffickers.
2. On 4th August, 2021 This Day Newspaper at page 73 reported that the human rights lawyer and activist, Mr. Femi Falana (SAN), has given the Minister of Justice and Attorney General of the Federation, Abubakar Malami, seven days to provide information on the prosecution of about 400 sponsors of terrorism believed to have been arrested by the federal government. He reminded the AGF that on May 4, 2021, it was widely reported in the print and media that federal government had concluded arrangements to prosecute about 400 alleged sponsors and financiers of terrorism in Nigeria.
3. On 10th August, 2021 This Day Newspaper at page 15 reported that the recent charge by the Minister of Interior, Rauf Aregbesola, for Governors to sign the death warrants of convicts on death row who have exhausted all avenues of appeal, is an inherent violation on their rights. Report had it that the Minister had been urged to liaise with judiciary on how to operationalize the section of law that provides for a Chief Judge to commute sentence of death to life imprisonment.

4. On 19th August, 2021 The Guardian Newspaper at page 7 reported that aggrieved youths, protested in front of the Oyo State Secretariat Complex, over the alleged killing of 14-year-old boy, known as Peter by Amotekun Corps operatives. Report had it that the youths were seen carrying the remains of the victim on the roof of a tricycle and calling on the Governor Seyi Makinde to fish out the killer.
5. On 25th August, 2021 The Guardian Newspaper at page 7 reported that the Human Rights Writers Association of Nigeria (HURIWA) has canvassed for full investigation of Amnesty International (AI) report on killings by security forces in the South East region. This was made known at a media briefing by the National Coordinator of HURIWA, Emmanuel Onwubiko.
6. On 30th August, 2021 The Guardian Newspaper at page 5 reported that Socio-Economic Rights and Accountability Project (SERAP) has sued the Federal Government at the Federal High Court, Lagos, over proposed payment of N729 billion to poor Nigerians.
On 31st August, 2021 Daily Trust Newspaper at page 6 reported a security multi-stakeholder's town hall meeting hosted by Borno State Governor Babagana Umaru Zulum in Maiduguri on Sunday afternoon extensively discussed pros and cons implications of the on-going surrender by Boko Haram fighters. The meeting reached 16 resolutions, including demands that firearms be retrieved from all repentant insurgents and profiling made stringent in order to avoid hasty release of hardened elements to the larger society.
7. On 2nd September, 2021 Daily Trust Newspaper at page 30 reported that Bayelsa State Governor, Senator Douye Diri says that Nigeria is in dire need of competent managers of human and other resources to achieve sustainable national security and development. This statement was made while presenting keynote address at the South-South Zonal Management Summit organized by the Nigerian Institute of Management (NIM) in Yenagoa.
8. On 2nd September 2021, This Day Newspaper at page 14 reported the mistreatment of Nigerian citizens abroad. The Nigerian Foreign Minister Geoffrey Onyeama strongly condemned the incident, describing it as an egregious act of international delinquency by Indonesian state actors. The Foreign Minister demanded appropriate sanctions against the relevant officials and review of bilateral relations between the two countries.

9. On 2nd September 2021, This Day Newspaper at page 47 reported that Irate residents of Ajobamidele area of Ado Ekiti stormed the street in protest over kidnap of four residents by the suspected gunmen.
10. On 2nd September 2021, This Day Newspaper at page 47 reported an otherwise peaceful protest by group of Person Living with Disabilities (PLWD) in Tombia roundabout in Yenagoa over alleged suspension of a deputy bursar, who was their member by the authorities of the state owned Niger Delta University (NDU).
11. On 2nd September 2021, The Guardian Newspaper at page 8 reported that the Enugu State Police Command had begun investigation over circumstances surrounding the alleged killing of a rice farmer and justice meted to suspected killer.
12. On 9th September 2021, Daily Trust Newspaper at page 6 reported that pensioners in Rivers State staged a peaceful protest over the non-payment of their gratuities and ten years' pension arrears. The retirees stated that they have been facing hardship since 2012 till date.
13. On 13th September, 2021 Daily Trust Newspaper at page 3 reported that a Federal High Court in Abuja has fixed September 17th for the arraignment of 400 suspects for alleged sponsoring of terrorism.
14. On 13th September, 2021 This Day Newspaper at page 21 reported that an 81-year-old retired medical director, Dr. Wilson Olatunde Olabisi, has raised the alarm that suspected fraudsters are using fabricated copies of his property documents as collateral to obtain huge bank loans without his knowledge. According to the report, he has been receiving unending court eviction orders from the Asser Management Corporation of Nigeria on his property located in Lekki Phase I, Lagos.
15. On 14th September, 2021 The Guardian Newspaper at page 13 reported that the family of Late Monsurat who was allegedly killed by team of detectives from State Criminal Investigation Department, Panti are seeking for justice and appealing to Governor Babajide Sanwo-Olu to ensure that their daughter does not die in vain.
16. On 16th September, 2021 The Guardian Newspaper at page 20 reported that no fewer than 1,000 civil servants in Cross River State, protested against the non-payment of their four year salaries dating back to 2015 and 2018.
17. On 16th September, 2021 Daily Trust Newspaper at page 9 reported that the EndSARS Judiciary Panel of Inquiry into the extra-judicial killings and violation of human rights in Ebonyi State had recommended the sum of N189, 000,000.00 to be paid to determined cases of victims in the state. The panel recommend that any officer

found waiting on cases of human right violations or other related extra-judicial killings in Ebonyi State should be punished.

18. On 17th September, 2021 The Guardian Newspaper at page 5 reported that the Chairman, Senate Committee on Army, Ali Ndume, had endorsed the ongoing onslaught against bandits, including kidnappers in the North West geo-political zone of the country.

19. On 30th September, 2021 Daily Trust Newspaper at page 4 reported an outrage over the killing of Dr. Chike Akunyili. According to eye witness, the hoodlums were chanting 'No election' in Anambra in November.

Conclusion

Despite all the reforms government has made the police still arrest relatives and friends in lieu, citizens are still being arbitrarily arrested and detained. About the 36 states in Nigeria have adopted State-level Administration of Criminal Justice Law (ACJLs), while others are yet to do so. Once all the states of the federation adopt it and if implemented properly, the law will restore the confidence of people in the criminal justice system and ensure uniformity across board.

The power to remove or suspend judicial officers should be divested from the executive and vested in the legislature, the procedure and condition that must be met before judicial officers can be removed or suspended should be provided for in the Constitution.

Alternative Dispute Resolution (ADR) mechanisms should also be strengthened by training and retraining to encourage capacity development needs and coordinated strategies for institutionalizing ADR across all sectors.

This is because the advantages of dispute resolution are too overwhelming to be ignored, the alien nature of the legal system, the public's unfamiliarity with the nature of litigation process, are factors that make ADR a better alternative because it is more cost effective and are in tandem with traditional method of dispute resolution that has served society long before colonization came to be.

The public and the Bar must rise and guarantee the independence of the judiciary as the legal framework in the country are not enough to protect this critical sector of our democracy.

Recommendation

Illiteracy and lack of awareness are the main issues affecting access to justice in Nigeria. There is the need for government to do more in creating awareness for the people in the rural areas about the concept of access to justice. This can be done through creating legal information centres and projects targeted at training people to know their rights and be able to represent themselves should the need arise.

The Legal Aid Council should have offices located in rural areas, Paralegal - based projects that train and employ people to serve as advocates and mediators should be created. All these will go a long way in improving public knowledge of the legal system.

The NHRC on its part in collaboration with CSOs and NGOs should continue to carry out awareness campaigns all over the country, especially in rural areas, markets, schools, media, internet etc. to get the message about the concept of access to justice across to as many people as possible.

We need to strengthen the capacity of our justice delivery system, including addressing issues of welfare packages and conditions under which justice is delivered by the stakeholders,

Judicial training- seminars and workshops should be held periodically for judges. This type of training will help to improve the efficiency of judges in carrying out their duties.

CHAPTER EIGHTEEN

SEXUAL AND GENDER BASED VIOLENCE

By

Ngozi Okechukwu Okore*

Introduction

This chapter discusses Sexual and Gender Based Violence (SGBV) issues in Nigeria, including its drivers, consequences, legal frameworks, way forward and the complaints relating to SGBV received by the Commission in 2021. Despite all the efforts made by the government, civil society organisations/non-governmental organisations, development partners and other relevant stakeholders in combating SGBV in Nigeria, it still persists. In consequence, more collective efforts should be put in place to fight against this menace. In order to achieve this, perpetrators/abusers should be brought to book so as to serve as a deterrent to others. Also, there should be continuous awareness creation and campaigns on the ills of SGBV.

It need no emphasis that women suffer many forms of violence in Nigeria ranging from physical, sexual, economical, emotional or psychological trauma. Violence against women and girls worsened during the implementation and enforcement of COVID – 19 Lockdown brought about because of the declaration of the Covid – 19 as a Pandemic in March, 2020.¹ The Commission received and treated about 232 cases from across the country between March and June, 2020². According to the 2018 National Health and Demographic Survey, nearly one in three (31%) of women aged 15 - 49 have experienced physical violence, while 9% have experienced sexual violence, 6% of women have also experienced violence in pregnancy³. Intimate partner violence which is a form of Gender Based Violence (GBV) was found to be higher in 2018 with 36% of women reporting a form of abuse or violence from their partners. When compared to the 31% and 25% recorded in 2008 and 2013, respectively, this represents an increase in numbers.⁴ Similarly, recent data shows that the prevalence of physical violence against women is increasing, with the percentage of women who have been

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¹ T Ojukwu and O B Agu., *Sexual and Gender Based Violence/Harmful Traditional Practices Against Women and Girls Across Nigeria: An Assessment of the 16 Days of Activism on Elimination of Violence Against Women and Girls* (National Human Rights Commission 2020) 10.

² *ibid*

³ National Population Commission, *Nigeria Demographic and Health Survey 2018* (Abuja, 2019) 2.

⁴ *ibid*

subjected to physical abuse since the age of 15 rising from 28% in 2008 and 2013 to 31% in 2018.⁵

In the year 2021, the Commission received 158,517 complaints on Sexual and Gender Based Violence (SGBB) against women and children⁶. Also, the Nigeria Lawyers online publication reported that the Minister of Women Affairs in 15 April 2021 declared that a data from the SGBB Situation Room showed that out of over 3,000 reported cases of SGBB, only 11 cases have been prosecuted so far in various states of the country⁷.

Conceptual Clarifications/Definitions

Violence against women and gender based violence

According to the UN General Assembly Declaration on Elimination of Violence Against Women (BAW) adopted in 1993, Violence Against Women is ‘Any act of gender based violence that results in or is likely to result in physical, sexual or psychological harm or suffering to women including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life’⁸.

In the same vein, the United Nations High Commission for Refugees (UNHCR) stated that ‘Gender Based Violence is violence that is directed against a person on the basis of gender or sex; it includes acts that inflict physical, mental and sexual harm or suffering threats of such acts, coercion, and other deprivations of liberty’⁹.

Similarly, Inter – Agency Standing Committee (IASC) defined Gender Based Violence (GBB) as ‘An umbrella term for any harmful act that is perpetrated against person’s will, and that is based on socially ascribed differences between males and female’¹⁰. The underlying cause of BAW lies in gender discrimination – denial of women’s equality with men in all areas of life. Women are often targeted because of their race, class, culture, sexual identity or HIV status or because they’re often from poor or marginalized communities.

⁵ ibid

⁶ S Ogunlowo, ‘158,000 Complaints of Violence against Children, Women received in 2021’ *Premium Times* (Abuja, 28 March 2022) <<https://www.premiumtimesng.com/news/headlines/520342-158000-complaints-of-violence-against-children-women-received-in-2021-official.html>> accessed 20 April 2022.

⁷ C Unini, ‘Only 11 out of 3,000 Gender Based Violence Cases Prosecuted – FG’ *The Nigeria Lawyer* (Abuja, 15 April 2021) available online at <<https://thenigerialawyer.com/only-11-out-of-3000-gender-based-violence-cases-prosecuted-fg/>> accessed 21 April 2022.

⁸ UN Declaration on the Elimination of Violence Against Women (1993)

⁹ National Human Rights Commission and others, *Training on Mainstreaming Human Rights, Humanitarian Principles and Civilian Protection into Counter – Insurgency Operations in the Northeast* (2019)

¹⁰ ibid

Also, the 1995 Beijing Platform for Action expanded the definition of BAW by including the violations of the rights of women in situations of armed conflict, systematic rape, sexual slavery and forced pregnancy, forced sterilization, forced abortion, coerced or forced use of contraceptives; prenatal sex selection and female infanticide¹¹. Sexual and Gender Based Violence violates and impairs the enjoyment by women of their human rights and fundamental freedoms.

Classifications of violence against women and girls

Violence against women and girls can be classified as physical, sexual, economic, psychological/emotional and harmful traditional practices which includes intimate partner violence, child marriage, forced marriage, physical abuse, rape, sexual harassment, harmful traditional practices such as harmful widowhood practices, female genital mutilation, denial of inheritance, forced prostitution, trafficking and exploitation. There are also technology-facilitated GBB such as cyber-harassment (including revenge porn), cyber-bullying amongst others.

What are the factors that aggravate sexual and gender based violence?

The factors that worsen sexual and gender based violence could be cultural, legal, economic and political. The main root causes of GBB in Nigeria are gender inequality which is driven by socio-cultural practices and gender norms that consider women and girls subordinate to men.¹² Studies carried out in Nigeria have underlined these factors to include age, marital status, belief that beating a woman is an appropriate way to correct her, and the belief that family matters should be kept private and restricted to the family circle.¹³

Different dynamics also render different groups of persons susceptible to different forms of GBB, for example, young girls and adolescents may be more vulnerable to sexual violence, women and girls in irregular migration situations, trafficked women and girls, internally displaced women and girls, women and girls in irregular living arrangements may all be more

¹¹ Beijing Platform for Action and the Beijing Declaration (1995).

¹² S Omorogbe and others, 'Causes and Management of Domestic Conflicts among Couples: The Esan Case' [2010] *Journal of Social Science* 57.

¹³ *ibid*

vulnerable to GBB.¹⁴ This also applies to sex workers. Although GBB is prevalent across economic groups, it is higher in situations of poverty and economic inequality.

Public health emergencies and disasters also contribute to rising surge of SGBB. During the COVID-19 Pandemic, the rates of sexual violence, intimate partner violence and other forms of SGBB skyrocketed and in essence, became an epidemic within the Pandemic, which some have referred to as the 'shadow pandemic.'¹⁵ As a result of the lock down, many women were forced to stay alone with their abusers. The rates of intimate partner violation rates rose exponentially.¹⁶ A higher number of rapes and murder of young women, and a worrying number of cases of incest across the states during the lock down which lasted for four months were also reported.¹⁷ Apart from public health emergencies and other disasters, conflict and humanitarian situations are also notable factors in the perpetration of SGBB.

In addition, Inko – Tariah stated that socio – cultural practices have not only allowed violence against women, but have also adopted such bad acts as wife battery and child abuse as normal happenings¹⁸. On the other hand, Mills agreed that Nigerian socio – cultural practices tend to place the male child superior over the female child. As such, the woman is made to occupy submissive and docile roles as a sign of good home upbringing¹⁹.

Equally, Walby and Allen agree that socialization process ascribes inferiority and superiority in specific roles that makes the man naturally head of the woman and having control over her. As a result of the prevailing structural inequality of gender in Nigeria, it is common for a man to beat his wife and not vice – versa²⁰. Indeed, in some socio – cultural settings, the woman is to be seen and not heard and often women are grouped alongside children.

¹⁴ R Michelle and others, 'Prevalence and Health Impact of Intimate Partner Violence and Non-partner Sexual Violence Among Female Adolescents Aged 15 to 19 Years in Vulnerable Urban Environments: A Multi-Country Study' [2014] *Journal of Adolescent Health* 58.

¹⁵ UNICEF, 'The Shadow Pandemic' <<https://www.unicef.org/nigeria/stories/shadow-pandemic>> accessed 9 June 2022.

¹⁶ J C Young and others, 'The Shadow Pandemic: Gender-Based Violence and COVID-19' (2020) *International Growth Centre* <<https://www.theigc.org/blog/the-shadow-pandemic-gender-based-violence-and-covid-19/>> accessed 15 June 2022.

¹⁷ P Adepoju, 'Gender-Based Violence : The Shadow Pandemic Of COVID-19' <<https://healthpolicy-watch.news/75409-2/>> accessed 20 June 2022.

¹⁸ EM Kembe and others, 'Violence Against Male Workers in Makurdi Metropolis: A Case Study of Workers in Four Ministries, Benue State' (2011) *Vol 9, Journal of The Nigerian Society of Educational Psychologists*, 66

¹⁹ *ibid* 67

²⁰ *Ibid* 67

Consequences of sexual and gender based violence

In Nigeria, the consequences of SGBB are many and terrible. It causes pain, fear, injury and sometimes death. There is damage and hurt to bodies, minds, emotions and lives. There is lack of trust and discord in family relationships which can result to negative effects on the development of children's psychological and physical health in households where domestic violence is common.

Legal Framework

International

Nigeria is a signatory to several international instruments that specifically deal with the attempts to stop violence against women. These include:

The Universal Declaration of Human Rights (1948)

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (1981)

Vienna Declaration on Elimination of Violence Against Women (1993)

Beijing Declaration and Platform for Action (1995)

Regional

At the regional level, Nigeria is also signatory to:

African Charter on Human and Peoples Rights (1981)

Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa (2003) and the African Union Solemn Declaration on Gender Equality in Africa (2004). The key principles in these instruments include non – discrimination, equality of rights, participation, individual autonomy and non- violence. By becoming a signatory, the government of Nigeria is committed to changing any laws, practices or policies that do not fulfil the rights agreed upon and expressed in those documents. This includes changing all laws (statutory, customary or religious), practices and policies that discriminate against women or fail to protect women from violence.

Domestic

The 1999 Constitution of the Federal Republic of Nigeria (as Amended)²¹ is the most fundamental law in Nigeria, which provides protection for women's rights. Chapter IB of the Constitution in Sections 33 to 44 provide for the protection of the fundamental rights of all

²¹ 1999 Constitution of Nigeria as amended, S.33 - 44

citizens. Section 42(1) confers equal rights on all citizens irrespective of ethnic group, place of origin, sex, religion and political opinion. Section 42(2) prohibits that no citizen of Nigeria shall be subjected to any disability or deprivation merely by reason of the circumstances of his or her birth. It also recognizes the fundamental right to equality. These rights are justiciable and can be enforced against all persons and authorities.

The Violence Against Persons (Prohibition) Act, 2015 aims to eliminate, or reduce to a minimum, the cases of gender based violence. The key gains in the law include a more comprehensive definition of rape, harsher sentences for rape and other sexual offences, compensation for rape victims, institutional protection from further abuse through restraining orders and a new fund to support the rehabilitation of victims of violence. It also covers a tragic spectrum of violence, including female genital mutilation, domestic violence, early forced marriage and harmful widowhood practices. The Act recognizes the rights of all to safety both in the private and public. As at December 2021, 27 States have adopted the Violence Against Persons Prohibition (BAPP) Act into law.²² Furthermore, efforts are still on – going to get the remaining states to adopt the Act as state laws.

The Child Rights Act, 2003 deals with different issues aimed at protecting and guaranteeing the rights of children. It prohibits that the best interest of the child shall be taken into consideration in any matters that concern the child. It has been signed into law in 29 states out of 36 states.²³

In addition to the laws, there is a National Gender Policy in force which seeks to promote gender mainstreaming and equality. The policy prohibits a 35% minimum threshold for women's participation in politics whether in appointive or elective positions. Equally, the National Action Plan on the implementation of United Nations Security Council Resolution (UNSCR) 1325 and Related Resolutions on Women, Peace and Security address the gender concerns in times of insecurity and peace. In August 2013, the Government of Nigeria, committed itself to addressing and responding to the immediate and long term needs of

²² Partners West Africa Nigeria, 'BAPP Tracker' available online at <<https://www.partnersnigeria.org/bapp-tracker>> accessed 22 April 2022.

²³ A Shaban, 'COVID – 19 Gender Violence report, Nigeria ,Women Africa'(Abuja, 24 July 2022) available online at <<https://akuwatch.ng/2022/07/24/ngo-women-africa-release-report-on-gender-based-violence-in-nigeria>> accessed 7 August 2022.

women before, during and post conflict by developing and adopting a National Action Plan on UNSCR 1325²⁴.

Response to survivors of sexual abuse

As of March 2022, only 18 states (including FCT) have established Sexual Assault Referral Centres (SARCs) that provides medical assistance, counselling and justice support services in a confidential space free of charge to survivors of sexual violence.²⁵ Furthermore, the Sexual Offenders Register (SOR) has been established by 10 out of 36 states in Nigeria²⁶

In relation to above, the Commission upgraded the Call Centre with specific SGBB Toll Free Lines and launched UNSUB – a digital platform based on artificial intelligent that connect victims of SGBB to a responder.

Media reports on Sexual and Gender Based Violence

1. On 2nd August, 2021 This Day Newspaper at page 21 reported the on-going case of a 14 year old Karen-Happuch, a student of Premier Academy, Lugbe, Abuja, who was allegedly raped in her school, a situation that eventually led to her death. The report had it that the Executive Secretary, National Human Rights Commission (NHRC), received a petition from the Centre for Gender Based Violence Responders led by Mr. Lemmy calling for full-scale investigation of the rape in order to identify the rapist and bring him to justice.
2. On 3rd August, 2021 This Day Newspaper at page 16 reported that a coalition of women's group in Anambra State under the aegis of Gender and Constitution Reform Network (GECORN), has called for an end to female genital mutilation, child marriage and others. Report had it that the group called for constitutional review to accommodate the rights of women in Nigeria.
3. On 4th August, 2021 Daily Trust Newspaper at page 14 reported that the Chief of Army Staff, Lieutenant General Farouk Yahaya, yesterday lamented the increasing

²⁴ Federal Ministry of Women Affairs and Social Development, National Action Plan for the Implementation of UNSCR 1325 and Related Resolutions on Women, Peace and Security in Nigeria, 2017 – 2020 (Abuja, 2017)

²⁵ British Council@herstoryOSNG, available online at <www.herstoryourstory.ng> accessed 25 July 2022

²⁶ A Shaban, 'COVID – 19 Gender Violence report, Nigeria, Women Africa' (Abuja, 24 July 2022) available online at <<https://akuwatch.ng/2022/07/24/ngo-women-africa-release-report-on-gender-based-violence>> accessed 7 August 2022

cases of sexual abuse in military formations across the country. According to him, most of the gallant officers and soldiers spend the year-round in bushes and frontlines away from their families.

4. On 4th August, 2021 This Day Newspaper at page 71 reported that the federal government has vowed to deal decisively with the perpetrators of rape and other gender-based violence in the country. This was made known in a statement by the Vice President, Prof Yemi Osinbajo at the official launch of USAID's Momentum Country and Global Leadership.
5. On 6th August, 2021 The Guardian Newspaper at page 4 reported that the Attorney General of the Federation and Minister of Justice, Abubakar Malami, has said the Federal Government is engaging heads of courts to fast track justice for victims of rape, sexual and gender-based violence.
6. On 12th August, 2021 The Guardian Newspaper at page 9 reported that a Federal High Court in Abuja, has ruled in favour of six women, who were harassed and abused during raids by the Abuja Environmental Protection Board (AEPB), police and other law enforcement agents.
7. On 17th August, 2021 Daily Trust Newspaper at page 53 reported that a 52 year old pastor, Samson Ajayi and one Jamilu Jejeleya (36) have been arraigned before an Ado Ekiti magistrate's court over gender-based violence on one Nifemi Ajayi.
8. On 18th August, 2021 Daily Trust Newspaper at page 23 reported that two suspects have been arrested by Akwa Ibom State Police Command over kidnap and rape of two under aged girls. According to report, one of the suspects, Ufe has confessed to the crime, repeatedly raped his victim who is currently four months pregnant from the act.
9. On 18th August, 2021 a Kaduna chief magistrate's court on Tuesday ordered that a 36-year-old unemployed man, James Austin, be remanded in a correctional centre for allegedly defiling a nine-year-old girl.
10. On 18th August, 2021 Daily Trust Newspaper at page 26 reported that the Nigeria Security and Civil Defence Corps, Ondo State Command has paraded four suspects for offences ranging from rape, child defilement and stealing of motorcycle. The Command also said that a 13-year-old girl was gang-raped by Oluwadare and Suraju, who both hailed from Ilepa, Ondo State.
11. On 25th August, 2021 Daily Trust Newspaper at page 4 reported that Save the Children International (SCI), has empowered over 183,164 adolescent girls and boys

aged 10 to 19 years on sexual and reproductive health. The essence of the project was to ensure that they have access to “gender responsive” adolescent sexual and reproductive health services and rights. The Director of family health of Ministry of Health, Dr. Salma Ibrahim said that the project had affected young women and girls positively in areas of child marriage, early childbearing and gender-based violence.

12. On 25th August, 2021 The Guardian Newspaper at page 7 reported that the traditional rulers in Abia State, resolved to free the state from all forms of violence against women and girls and expressed support for inclusion of women in leadership, politics and decision-making in matters that affect them. They also expressed support for implementation of Supreme Court judgement in Ukeje v Ukeje which rules that females have the right as next of kin and are entitled to property inheritance whether married or not.
13. On 26th August, 2021 This Day Newspaper at page 6 reported that Ekiti State First Lady, Erelu Bisi Fayemi, posited that the dreadful culture of silence about sexual harassment in higher institutions of learning must be broken. This statement was made known at the official launch of the Anti-Sexual Harassment Policy of Obafemi Awolowo University, Ile-Ife.
14. On 30th August, 2021 Daily Trust Newspaper at page 28 reported that the National Human Rights Commission (NHRC), Kano office says it is investigating a father for allegedly sexually molesting his two daughters aged 12 and 17. The complaint was lodged by the 17-year-old and the NHRC is collaborating with Ministry of Justice to prosecute the father.
15. On 30th August, 2021 Daily Trust Newspaper at page 29 reported that the police in Ogun State have arrested a 33-year-old man, Imoleayo Adekoya for allegedly beating and raping a 27-year-old woman.
16. On 5th October, 2021 This Day Newspaper at page 22 reported the recent patronage by the Duchess of Cornwall, conferred on Mirabel Centre, Nigeria’s first Sexual Assault Referral Centre, which provides succour and safe place to victims of survivors, which was a huge boost to the hydra headed monster of sexual assault and rape, including those targeted at minors.
17. On 11th October, 2021 The Guardian Newspaper at Page 2 reported that child advocates had lamented that the country ranks bottom side globally in child welfare, and bottom ten for girls flourishing. It was also reported that the secretary of the

Lagos State Domestic and Sexual Violence Response Agency, Titilayo Bibour-Adeniyi, pointed out that the issues hampering the girl-child are still very much in place and the last few years have seen a steady rise in the number of girls being sexually abused.

18. On 25th October, 2021 The Guardian Newspaper at page 8 reported that the Edo State Government has said it would establish specialised courts for the speedy trial of rape and other sexual offences and gender-based violence in the state.

Conclusion

It is important to note that men and women are affected by GBB. However, women and girls are often disproportionately affected because violence reflects and reinforces existing gender inequality, gender norms and patriarchy. Violence against women may be universal but it is not normal or inevitable. As long as women are denied their human rights, anywhere in the world, there can be no justice. Recognition of women's human rights is an essential requirement for every society. Government, individuals and communities have vital roles to play in overcoming discrimination of women, impunity and injustice.

Recommendation

There is need to reinforce the elements of our cultures that regard violence, domination and the infliction of injury, pain and hurt on others as evil.

Gender repressive policies and legislations should be translated into action hence the focus of the Commission and other relevant stakeholders' advocacy should be the implementation and enforcement of BAPP Act/Law against offenders and also the establishment of Special Courts to handle SGBB cases.

There should be continuous sensitization and awareness creation of the citizenry on the ills of sexual and gender based violence and also encourages women and girls to speak out and report SGBB cases to appropriate authorities.

There is need for National Assembly to re-visit/re-introduce all the Gender Bills that were stepped down and pass them into law.

All relevant agencies must find ways to provide for adequate safe spaces for protection of women in need of such hence the need to have shelter by the Commission.

Gender budgeting should be included in the Commission's Annual Budget Plan.

Availability of funds for SGBB related programmes and activities e.g. Public Hearing on Special Investigation Panel on SGBB should be sustained to enable more women to speak out as well as seek redress.

Also Sexual Assault Referral Centres need more funding and should be established in all the states of the federal.

Officers handling SGBB cases should be trained and retrained in SGBB case management.

There is need for synergy, collaborations and partnership among relevant stakeholders and development partners.

States must prevent, investigate and punish those responsible in order to ensure accountability.

We must break the culture of silence.

CHAPTER NINETEEN

RIGHT TO PROTECTED SUSTAINABLE ENVIRONMENT

By

Jennifer Suoyo Aga*

Introduction

Environment is an important resource and must be maintained and sustained in a favourable range for life. Environmental sustainability, in this context, could be defined as a condition of balance, resilience and interconnectedness that allows human society to satisfy its needs while neither exceeding the capacity of its supporting ecosystems to continue to regenerate the services necessary to meet those needs or by our actions diminishing biological diversity resource¹.

All humans have the right to a protected and sustainable environment as this right is central in the fulfilment of other human rights, including the right to life, health, shelter, food, water and sanitation. According to principles 1 and 4 of the Rio Declaration, "Human beings are at the centre of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature.... In order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it..."²

Nature provides direct sources of food and a series of ecosystem services (e.g. pollination, oil exploration, soil formation, nutrient cycling, and water regulation) supporting agricultural activities and contributing to food security and nutrition.

The above activities, increasing world population and changes in consumption patterns put pressure on the environment creating the need to produce food for an additional two billion people by 2030, while preserving and enhancing the natural resource base upon which the well-being of present and future generations depends. This is important considering that

* Jennifer Suoyo Aga, Assistant Director, Legal, Vulnerable Groups Department, National Human Rights Commission, Nigeria, August 2022.

¹ Available online at <https://www.pdhre.org/rights/environment.html> accessed 22 August 2022

² *ibid*

unsustainable expansion of agriculture has created serious environmental problems such as soil erosion, water pollution through agrochemicals, and emission of greenhouse gases.³

This chapter will discuss the right to a protected environment from the Nigerian perspective. It will look at the Niger Delta environment and how the negative impact of various activities like gas flaring in the Niger Delta region has affected the economy and life of people of the region. The chapter will also look at the legal framework on the right to a protected environment, the obligations and responsibility of the government of Nigeria and proffer recommendations on how best to ensure a healthy and protected environment in Nigeria.

Conception Clarification/Definition

The concept of human rights connotes the rights that accrues to every human being. This right cannot be given or bought. These are rights instilled from the moment a person is born and have their origin in the natural order of life and good conscience the moment irrespective of their gender, nationality, caste, race, etc. These rights cannot be taken away from anyone neither can they be given as a reward and are all connected thus the violation of one always leads to violation of other related rights.

This Chapter states that the right to a protected environment is a human right and just like other rights, every human being, be it old or young is entitled to the right to an environment that is protected as well as other fundamental rights that are interrelated and interdependent on the right to a protected and safe environment.

Human Rights Connection to the Right to Protected Environment

Human rights relating to the environment are set out in basic human rights treaties and include: the human right to a safe and healthy environment, right to attain the highest attainable standard of health, right to ecologically sustainable development, right to adequate standard of living, right to access to safe food and water, right of the child to live in an environment appropriate for physical and mental development, right to full and equal participation for all persons in environmental decision-making and development planning, right to be part of decisions and policies affecting ones community, right to safe working conditions, right to freedom from any type of discrimination, education and information, including information relating to links between health and the environment.

³ Available online at <https://www.unep.org/explore-topics/environmental-rights-and-governance/what-we-do/advancing-environmental-rights> accessed 22 August 2022

Niger Delta and Environment

Faced with the results of polluting and destructive actions, more people started to see that a clean and healthy environment is essential to the realization of human rights, such as the right to life, health and development. Each human being depends on the environment as the resource base for all life. Hence, it has become more acknowledged over the years that human rights and the environment are so inherently interlinked and that a clean and healthy Environment is a human right.⁴

The Niger Delta region is the largest oil-producing area in Nigeria, covering an area of approximately 20,000km², within an overall wet lands area spanning about 70,000km². This region makes up 7.5 percent Nigeria's total landmass, with a population of 20 million people, composed of up to 40 different ethnic groups. Territorially located within the Nigerian Federal State, the Niger Delta is usually assumed to include the area of nine Nigerian States where oil is exploited, namely: Abia, Akwa Ibom, Bayelsa, Cross River, Delta, Edo, Imo, Ondo and Rivers States. The environmental problems afflicting the Niger Delta are now well-documented, but seem far from being resolved and the issues in the area are triggered by a number of factors including environmental degradation.⁵

The Niger Delta of Nigeria is the only region in the country that has, for decades, been plagued by oil spills as a result of oil exploration. These activities which have resulted in devastating of the region's environment with negative impacts on the lives of inhabitants of the area have deprived the indigenes of the complete enjoyment of their human rights.

The case of *Gbemre v Shell Petroleum Development Company Nigeria Limited and others*⁶ reflects the judicial activism in the interpretation of the right to life. This is commendable.

In this case, an action was filed against shell Petroleum for continuous gas flaring, production and exploration activities in the Niger Delta as affecting lives and livelihoods of persons and communities in the affected areas. The Court held that the constitutionally guaranteed right to life and dignity of the human person inevitably include the right to clean, poison free, pollution-free and healthy environment. In arriving at this decision the court not only relied on the constitutional provisions guaranteeing the right to life and dignity of the person but

⁴ Available online at <https://www.globalissues.org/article/86/nigeria-and-oil> accessed 22 August 2022

⁵ E Chegwe, 'The Impact of Foreign Law Suits on the Realization of the UNGPs in the Niger Delta Region of Nigeria: a Look at the Activities of Multinational Oil Companies' available online at https://www.researchgate.net/publication/333508921_THE_IMPACT_OF_FOREIGN_LAW_SUITS_ON_THE_REALISATION_OF_THE_UNGPs_IN_THE_NIGER_DELTA_REGION_OF_NIGERIA_A_LOOK_AT_THE_ACTIVITIES_OF_MULTINATIONAL_OIL_COMPANIES accessed 1 December 2022

⁶ FHC/B/CS/05 (2005)

also on the international obligation undertaken by Nigeria under articles 4, 16 and 24 of the African Charter on Human and Peoples' Rights which has been ratified and forms part of Nigeria's organic laws. (These respective Articles guarantee the Right to Life and integrity of human person, the right to attain the best attainable state of physical and mental health and right to general satisfactory environment favourable to development.)

Legal Framework

The right to a protected environment in Nigeria is guarded by different international, regional and national instruments. The instruments applicable to this right include conventions, treaties, charters and laws and case law especially in the Niger Delta.

The basis of environmental policy in Nigeria is contained in the 1999 Constitution of the Federal Republic of Nigeria. Pursuant to section 20 of the Constitution, the State is empowered to protect and improve the environment and safeguard the water, air and land, forest and wildlife of Nigeria.⁷ In addition to this, section 2 of the Environmental Impact Assessment Act of 1992 (EIA Act) provides that the public or private sector of the economy shall not undertake or embark on or authorize projects or activities without prior consideration of the effect on the environment.

In this regard, the Federal Government of Nigeria has promulgated various laws and Regulations to safeguard the Nigerian environment, these include:

Federal Environmental Protection Agency Act of 1988 (FEPA Act) repealed by the National Environmental Standards Regulation Agency (NESREA) Act 2007. The following Regulations were made pursuant to the FEPA Act:

National Environmental Protection (Effluent Limitation) Regulations;
National Environmental Protection (Pollution Abatement in Industries and Facilities Generating Wastes) Regulations; and
National Environmental Protection (Management of Solid and Hazardous Wastes) Regulations.

- Environmental Impact Assessment Act of 1992 (EIA Act).
- Harmful Wastes (Special Criminal Provisions etc.) Act of 1988 (Harmful Wastes Act).

The National Environmental Standards Regulation Agency, (NESREA) has the responsibility for the protection the development of the environment, biodiversity, conservation and

⁷ Section 20 of the 1999 Constitution of the federal Republic of Nigeria (as amended)

sustainable development of Nigeria's natural resources, environmental technology, including coordination and liaison with relevant stake holders within and outside Nigeria on matters of enforcement of environmental standards, regulations, rules, laws, policies and guidelines. Other regulatory agencies with oversight functions and responsibility over specific industries have also issued guidelines to regulate the impact of such industries on the environment such as the Environmental Guidelines and Standards for the Petroleum Industry in Nigeria (EGASPIN) 2002.⁸ The NESREA Act allows each State and Local Government in the country to set up its own agency for the protection and improvement of the environment within the State. Each State is also empowered to make laws to protect the environment within its jurisdiction. All the States have environmental agencies and State laws; e.g. Lagos, Akwa-Ibom, and Abuja - the Federal Capital Territory.

The Federal Capital Territory issued the Abuja Environmental Protection Board (Solid Waste Control/Environmental Monitoring) Regulations 2005, also referred to as "the Abuja Environmental Protection Board Regulations" which principally governs solid waste control in Abuja.

International and Regional Instruments

In the International and Regional sphere, the International Covenant on Economic, Social and Cultural Rights ICESCR and African Charter on Human and People's Rights ACHPR also provide for clean and healthy environment. The Sustainable Development Goal (SDG) Targets related to Environment and Green Jobs. This speaks directly on ways to protect our Environment to ensure public safety, clean and human rights friendly environment. The United Nations General Assembly established indicators to measure State progress under each target. Goal 8.4. makes provision to improve progressively through 2030 global resource efficiency in consumption and production, and endeavour to decouple economic growth from environmental degradation in accordance with the 10-year framework of programmes on sustainable consumption and production with developed countries taking the lead. Goal 1 provides for urgent action to combat climate change and its impacts.

Goal 14. Makes provision to conserve and sustainably use the oceans, seas and marine resources for sustainable development and Goal 15.enjoins all to protect, restore and

⁸ Published by the Department of Petroleum Resources (DPR).

promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss.⁹

Media report on right to protected environment

1. On 18th August, 2021 Daily Trust Newspaper at page 10 reported that the National Environmental Standards and Regulations Enforcement Agency (NESREA) has sealed three factories in Ogun State, for illegal operations and violations of environmental laws in Nigeria. This was disclosed in a statement by Assistant Director at NESREA headquarters, Mrs Gloria Oboh.

Conclusion

The magnitude of negative activities either natural or manmade carried out on our environment, has posed immense constraints not only in remote rural areas where it threatens the vital necessities of rural subsistence, but also in urban areas of the country. The fact is that, the authorities have not shown adequate interest and will power in changing the narrative about the negative environmental management in Nigeria. This is a thing of concern and requires interventions.

There have been several international negotiations, conventions and protocols relating to environmental management/protection of which Nigeria is party to. Nation However, for some reasons implementation of these instruments has become a serious challenge in Nigeria. It is insufficient to append signature on instruments, acceding to them and committing to the contents therein but the actual domestication and implementation is not done.

The Niger Delta for example, if well-handled adequately from the onset would not have been where it is now as far as positive environmental environment is concerned.

Recommendation

It is necessary that both the government and citizens play complementary role in the enforcement of environmental regulations so as to help protect the environment from man's excesses that leads to negative environmental impacts.

The government of Nigeria should ensure high standard and strict compliance with environmental laws and regulations meant to protect the environment and its resources so as to ensure environmental sustainability and positive impacts.

⁹ UN Sustainable Development Goals accessed on the 1st September 2022

There should be environment impact assessment carried before and after exploration of natural resources such as oil and mining. This should also include the effective enforcement of the standards required for such activities.

Finally, this Chapter suggests that the issue of corruption should not be taken lightly. Those found wanting should be brought to book. This will discourage the habit of collecting bribe from business owners thus encouraging them to carry out harmful activities without adhering to the acceptable standards. The government should also review some of its environmental laws that are obsolete.

CHAPTER TWENTY HUMAN TRAFFICKING

By

Titilayo Samuel*

Introduction

The term “trafficking”, as used in the present Principles and Guidelines of human rights and human trafficking, refers to the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.¹

Conceptual Clarifications Terms

In order to aid the understanding of the discourse and ensure clarity of terms, the highlighted concepts are clarified below.

Women traffickers

This are organized criminal rings involved in the smuggling (illegal transportation) of women within and across national borders to different destinations. Women and children are mostly targets

Trafficked persons

These are persons, male and female, recruited and transported within or across national borders for the purpose of sexual or domestic services.

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¹ Available on line at [https://www.ohchr.org/recommended Principles and Guidelines on Human Rights and Human Trafficking](https://www.ohchr.org/recommended%20Principles%20and%20Guidelines%20on%20Human%20Rights%20and%20Human%20Trafficking) assessed 26 April 2022.

Internal trafficking

This is referred to as domestic trafficking. It involves the recruitment and transportation of persons within the borders of a country, either from rural to urban areas or from one State to another, for purposes of sex work, child labour, or domestic services.

External trafficking: (Cross-border trafficking) External trafficking is also referred to as “international trafficking” and involves the movement of people across national, continental and international borders for the purpose of sex work, child labour and domestic service in exchange for monetary reward.²

Legal Framework

International

Human trafficking is not only a violation of human rights but a crime that is against all laws. Efforts have been severally made by bodies at international, regional and domestic levels to contend with this insolent and dehumanizing practice. Several treaties and protocols pertaining to human trafficking have been ratified by Nigeria. Nigeria is also signatory to a number of international conventions which are directly or indirectly related to human trafficking.

The Universal Declaration of Human Rights (UDHR) acknowledges and recognized inalienable rights of all persons and that everyone is born free with equal dignity and rights. It also states that, slave trade in all forms, servitude, slavery or slave-like practices shall be prohibited in all forms.³

The most important international instrument to combat trafficking is the UN Convention against Transnational Organized Crime (2000) (Trafficking Protocol) to which Nigeria is a party. Article 5 of the Protocol requires States to criminalize trafficking, and attempted trafficking. The International Labour Organization (ILO) Conventions focuses on forced labour or services: The ILO Forced Labour Convention (Convention No. 29 of 1930) and its newly adopted Protocol and the ILO Abolition of Forced Labour Convention (Convention No. 105 of 1957) all speak on issues relating to human trafficking, while the Slavery

² Nigeria's National Agency for the Prohibition of Trafficking in Persons, NAP TIP (2003)

³ Universal Declaration of Human Rights (adopted 10 December 1948), Articles 1, 4, 13(1) and 23.

Convention (No 105 of 1926) speaks on practices that discriminate against women in the context of marriage.

Similarly, the UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949) requires States to punish any person who exploits the prostitution of another. Consequently, the International Covenant on Civil and Political Rights (ICCPR) prohibits a number of practices directly related to human trafficking, which include all forms of slavery, slave trade, serfitude and forced labour.

The Convention on the Elimination of All Forms of Discrimination against Women requires States to take all appropriate measures to suppress all forms of trafficking in women and exploitation of prostitution of women. General recommendation No. 19 identifies trafficking as a form of violence against women because it puts women at special risk of violence and abuse. Human trafficking is incompatible with the equal enjoyment of rights by women and the respect for their rights and dignity.

Some international instruments have specific provisions concerning the trafficking of children namely: The Convention on the Rights of the Child (CRC) (1989), and the Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography (2000), prohibit trafficking in children for any purpose, including for exploitation and forced labour. Article 39 of the CRC requires States to “take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse.” The CRC also requires States to recognize the right of every child to education (Article 28) and “to facilities for the treatment of illness and rehabilitation of health” (Article 24). UN Optional Protocol to the Convention on the Rights of the Child, especially on the Sale of a Child, Child Prostitution and Child Pornography, 2002,⁴ specifies particular forms of protection and assistance to be made available to child victims of human trafficking.

Additionally, the ILO’s Worst Forms of Child Labour Convention (Convention No. 182 of 1999) prohibits perpetrators from using children under 18 years of age for all forms of slavery or practices similar to slavery, trafficking, debt bondage, serfdom, forced or compulsory labour, and prostitution. Article 7(2)(b) and (c) require States to take effective and timely measures to provide for the rehabilitation and social integration of former victims

⁴ Available on line at <<https://www.ohchr.org>> WRGS International Instrument Concerning Trafficking in Persons August 2014> accessed at 27 April 2022.

of the worst forms of child labour, including trafficking, as well as to ensure their access to free basic education, and, where possible and appropriate, vocational training.

Regional Laws

African Charter On Human and Peoples' Rights (ACHPR)

The ACHPR provides that “Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of a person particularly slavery, slave trade and torture, cruel, inhuman or degrading punishment and treatment shall be prohibited”.⁵

ECOWAS Declaration and Plan of Action against Trafficking in Persons (2001)

The ECOWAS declaration urges member States to commit themselves to measures that prevent trafficking in persons, protect and support victims of trafficking, promote awareness raising activities and establish cooperation for law enforcement officials at borders, share data amongst ECOWAS nations and the United Nations. The Plan of Action, which is the consensus of all heads of governments of member States of ECOWAS, itemized all necessary actions to be taken against trafficking in persons.

Domestic

The 1999 Constitution of the Federal Republic of Nigeria (as amended)

The 1999 Constitution also provides constitutional protection against slavery and forced labour or compulsory labour, sexual exploitation and deprivation of personal liberty of Nigerians. Trafficking in persons violates the provisions of Sections 17, 34 and 42 of the 1999 Constitution of the Federal Republic of Nigeria. Section 17 provides that: The state social order is founded on ideals of freedom, equity and justice. In furtherance of the social order – the sanctity of the human person shall be recognized and human dignity shall be maintained and enhanced. It also provided that the state shall direct its policy towards ensuring that children, young persons and the aged are protected against any exploitation whatsoever and against moral and material neglect.

⁵ Article 5 of African Charter on Human and Peoples' Rights

Section 34 provides that every individual is entitled to respect for the dignity of his person and accordingly and that – (a) No person shall be subjected to torture or to inhumane treatment or to degrading treatments.

(b) No person shall be held in slavery; and (c) No person shall be required to perform forced or compulsory labour. Also, the Third Alteration of the Constitution provides, that ... the National Industrial Court shall have and exercise jurisdiction to the exclusion of any other court in civil causes and matters – connected with or related to child labour, child abuse, human trafficking or any matter connected therewith or related thereto.⁶

Criminal and Penal Code

Nigeria has two codes of criminal laws; the Criminal Code covering the Southern States⁷ of Nigeria and the Penal Code applying to the Northern States⁸ of Nigeria. Under the Criminal Code, there are also various offences against liberty or slave dealing which are used to prosecute trafficking in persons and prostitution.⁹ The Penal Code similarly provides relevant provisions as it relate to human trafficking.¹⁰ The lack of adequate provisions regarding human trafficking in Nigeria's criminal laws led the Federal Government to enact a new law on trafficking entitled the 'Trafficking in Person (Prohibition) Law Enforcement Act 2015'.

Immigration Act 2015

The provision under section 44 of the Immigration Act, expressly speaks on issues of all forms of human trafficking and the consequences.

Child Rights Act (CRA) 2003

Child Rights Act (2003) is the law that guarantees certain rights to all children in Nigeria. It is the responsibility of the State Houses of Assembly in compliance with Section 12 of the Constitution to adopt and make their own state laws. Some of the States of the Federation are yet to domesticate the Child Rights Act eighteen years after the Federal Government of Nigeria enacted the Child Rights Act 2003 and urged all States to domesticate the Act into State law considering their peculiarities. Twenty-Nine States including Federal Capital

⁶ S 254 (1) Constitution of the Federal Republic of Nigeria (Third Alteration) Act 2011

⁷ Abia, Akwa-Ibom, Anambra, Bayelsa, Cross River, Delta, Ebonyi, Edo, Ekiti, Enugu, Imo, Lagos, Ogun, Ondo, Osun, Oyo and Rivers States

⁸ Adamawa, Bauchi, Benu, Borno, Gombe, Jigawa, Kaduna, Kano, Katsina, Kebbi, Kogi, Kwara, Nasarawa, Niger, Plateau, Sokoto, Taraba, Yobe, Zamfara and the Federal Capital Territory, Abuja

⁹ Criminal Code Section 223, 1 2 3 4; Section 224 (1) (2) (3) Sections 365³ 366⁴ and 369⁵

¹⁰ Penal Code Sections 275, 278, 279 and 280

Territory have domesticated the Child Rights Act 2003 while States such as Adamawa, Bauchi, Gombe, Jigawa, Kebbi, Yobe, Kano and Zamfara are yet to domesticate the Child Rights Act 2003.

Notably not much has been achieved as regards the best interest of the child. The Child Rights Acts 2003 prohibits the employment of a child as domestic help or engage them in child labour outside his own home or family environment. This is the most breached aspect of labour law¹¹ or Child Rights Act as nearly every, if not all privileged homes have under aged House-helpers. Most of these children undergo various forms of violations/abuses most especially by caregivers. The government must make frantic efforts and go beyond the provisions of the law and look critically at enforcement strategies and ensure good enabling environment for the effective operation of the laws in all the States of the Federation.

Trafficking in Persons (Prohibition) Law Enforcement and Administration Act, 2015 (as Amended)

To underscore the Nigerian government's resolve to stem the tide of trafficking in persons, the Federal Government took the step to enact the Trafficking in Persons (Prohibition) Law Enforcement and Administration Act 2015 (as amended). This law established the National Agency for the Prohibition of Traffic in Person (NAPTIP). The organization took over the functions of the special taskforce in human trafficking and was vested with the responsibilities to enforce laws against traffic in persons, and to take charge and coordinate the rehabilitation and counselling of trafficked persons; and other related matters. The Act is a Federal Legislation and applies to all the 36 States including the Federal Capital Territory Abuja.

Root Causes of Human Trafficking in Nigeria

The most common slavery in Nigeria are human trafficking and child labour. This is because modern slavery has been difficult to combat despite all efforts. Within Nigeria, women and girls are trafficked primarily for domestic servitude and commercial sexual exploitation, while boys are trafficked for forced labour in street vending, agriculture, mining, stone quarries, and as domestic servants. It is reported that there is high demand for child workers

¹¹ S 59-64 Nigeria Labour Act 2004 applying to children

at the household level, agricultural, construction, quarries and brass melting mostly in the informal sector¹². The root causes of human trafficking amongst others are -

Poverty

The International Labour Organization (ILO) and International Programme on the Elimination of Child Labour (IPEC) report shows that 8 million Nigerian children engaged in exploitative child labour and 40% of Nigerian street children and hawkers are trafficked children due to poverty¹³

Desire to migrate to study and work in the urban city and abroad

ILO report showed that the desire of Nigerian potential victims to migrate is exploited by offenders to recruit and gain initial control or cooperation, only to be replaced by more coercive measures once the victims have been moved to another State or region of the country. This may not always be the one to which they had intended to migrate¹⁴

Conflict

World Bank report showed that more than 1.5 billion people live in countries affected by violent conflict. Conflict is a push factor for trafficking, migration and poverty.¹⁵ In Nigeria due to conflict and the activities of the Non State Armed Group (NSAG) in the North East, North West and part of North Central, NSAG trafficked children and use them as soldiers and militias. Subsequently, the operation of the NSAG, has led to the recruitment of child soldiers as young as 12-years-old, while abducted women and girls in some regions in Nigeria are being subjected to domestic servitude, for e.g., Chibok girls in 2014 and Dapchi girls in 2018) have been alleged to be subjected to forced labour and sex slavery through forced marriages to NSAG

Weak system

Porous borders, corrupt government officials, the involvement of international organized criminal groups or networks and limited capacity of committed immigration and law

¹² P Adepelumi, 'The Root Causes of Human Trafficking In Nigeria' 13 April 2015 (African Centre for Advocacy and Human Development Nigeria)

¹³ *ibid*

¹⁴ *ibid*

¹⁵ *ibid*

enforcement officers to control borders has increased human trafficking. Also, lack of stringent legislation and political will has increased human trafficking in Nigeria.

The practice of entrusting poor children to friends or relatives

Some parents sell/give their children, not just for the money, but also in the hope that their children will escape a situation of chronic poverty and move to a place where they will have a better life and more opportunities. Most times, these children are being subjected to child labour and all forms of violations/abuses due to their vulnerability.

Challenge of Human Trafficking in Nigeria

Nigerian victims of human trafficking are exploited within and outside Nigeria. Stakeholders, who were consulted for a report on human trafficking in Nigeria by an international organization, estimated that two-thirds of Nigerian victims of trafficking are victims of domestic human trafficking¹⁶

Nigeria adopted the Trafficking in Persons (Prohibition) Law Enforcement and Administration Act (TIPLEAA), which constitutes the legal basis for the fight against human trafficking in Nigeria in 2003¹⁷ and which has been significantly amended in 2015.¹⁸ It is agreed that the Nigerian government at the Federal and State levels and other relevant stakeholders have made modest and concrete steps to address the issue of human trafficking. However, adequate resources and widespread and pervasive corruption affected all levels of government while undermining accountability for trafficking offenses. In the bid of the government making efforts to reduce the demand for commercial sex, but did not make discernible efforts to reduce the demand for forced labour mostly among children.

Trafficking of children and women for exploitative purposes in Nigeria is of two dimensions: internal and external. Internally, children are procured as domestic workers, while external trafficking provides girls and women for prostitution across the globe. Unsuspecting young girls and women have fallen prey to traffickers who use them for rituals.¹⁹

¹⁶ International organization A, confidential report December 2020, P. 16

¹⁷ Nigeria, Trafficking in Persons (Prohibition) Law Enforcement and Administration Act, 2003, url

¹⁸ Nigeria, Trafficking in Persons (Prohibition), Enforcement and Administration Act, 2015. url

¹⁹ L Akor, 'Trafficking of women in Nigeria: Causes consequences and the way forward' Article in Corbinus Journal of Sociology and Social Policy Vol 2 December (2011) P 91

Data indicate that child labour is a widespread problem in Nigeria. According to the Nigeria Living Standards Survey 2018/2019, 13 % of Nigerian boys and 10 % of Nigerian girls (5-14 years old) are subjected to all forms of work²⁰ Child labour under hazardous circumstances occurred across the whole of Nigeria. However, it was almost twice more common in rural than in urban zones, and occurred most in North East, North-Central and North-West Nigeria²¹ Children were subjected to various types of exploitation, including: domestic servitude, forced labour (in agriculture, mining, quarrying), and street hawking.²²

This phenomenon is not limited to the northern part but also in the southern and eastern part of the country, often women/girls are trafficked from the countryside to big cities²³. There are reported cases of channels where women/girls sell their babies from 'baby factories'. The traffickers recruit already pregnant, unmarried women from poor backgrounds either (falsely) promising them a high amount of money in return for their babies²⁴, or luring them into the 'baby factories' by pretending to provide them with some form of support.²⁵ Children with disabilities are also at risk of human trafficking, for exploitation in begging, forced labour or sexual abuse. Stigma and discrimination against children with disabilities remains a serious concern, increasing risks of trafficking. Implementation of the Convention on the Rights of Persons with Disabilities is important to ensure that the rights of trafficked persons with disabilities are protected, and that effective access to justice is ensured in all legal proceedings.

In addition, the government increased efforts to prevent human trafficking however the government did not provide sufficient protections for workers employed in the informal economy—including children working in agriculture, domestic work, and artisanal mining—rendering such workers vulnerable to trafficking²⁶.

²⁰ Nigeria, National Bureau for Statistics, 'Nigeria Living Standards Survey 2018/2019' 2021, url, P 58

²¹ UNICEF, 2016-2017 Multi-Indicator Cluster Survey, 2017, url, pp. 223-224

²² International Organization A, 'Confidential Report December 2020' P. 17; US, USDOS, 'Trafficking in Persons Report 2020: Nigeria' 25 June 2020, url, P 381

²³ US, USDOS, 'Trafficking in Persons Report 2020' Nigeria, 25 June 2020, 381. See also: DW, 'The New Ways of Nigeria's Human Trafficker', 3 October 2017.

²⁴ Guardian (The), 'I had no choice': 'the desperate Nigerian women who sell their babies' 6 May 2020.

²⁵ *ibid*

²⁶ Available on line at <<https://www.state.gov/reports/2019-trafficking-in-persons-report-2/nigeria/>> accessed 15 April 2022

Efforts in Combating Human Trafficking in Nigeria

Positive developments during the last couple of years have been embarked on. This includes the creation of a new National Action Plan (NAP) on Human Trafficking in Nigeria 2022-2026²⁷ and the creation of multiple State Task Forces on human trafficking.²⁸

The NAP document is meant to coordinate stakeholders' efforts for greater effectiveness and efficiency in the fight against human trafficking in Nigeria. The document is a roadmap for Ministries, Departments and Agencies (MDAs), State Taskforces, Civil Society Organizations, International Donor Organizations as well as the Media to get involved in the fight against human trafficking in Nigeria.

This is National Policy Document for combating human trafficking in Nigeria and the blueprint for all anti-human trafficking interventions as it ensures efficiency and greater synergy in the utilization of intervention funds from the international community and domestic donors.²⁹ The NAP comprises five critical pillars of action on trafficking in persons including Protection and Assistance, Prevention, Research and Assessment, Prosecution and Partnership and Coordination.³⁰

At the State level, the Edo State Government passed a new anti-trafficking law and provided additional resources to combat trafficking. Delta and Ondo States established anti-trafficking task forces while other states are planning to do so in the bid to combat human trafficking. Likewise, various stakeholders in their efforts collaborated in various areas in the bid to stem the tide of human trafficking. However, more work is required and more effective law enforcement will create a disincentive for human traffickers. In Nigeria³¹

²⁷ UNODC, 'NAPTIP kick-off process to develop a new national action plan against human trafficking' 23 November 2020, UNODC, 'Strengthening the policy framework and response to human trafficking in Nigeria' 2020 – 2021, 2020.

²⁸ UNODC, 'Nigeria heeds global call, sets up State Task Force against human trafficking' n.d. . See also, NAPTIP, October 2020, n.d.,

²⁹ Available on line at <https://tribuneonline.com/fg-set-to-roll-out-national-action-plan-on-human-trafficking-in-nigeria-2022-2026/> accessed 15 April 2022

³⁰ Ibid

³¹ Available online at <<https://www.ohchr.org/recommended-Principles-and-Guidelines-on-Human-Rights-and-HumanTrafficking>> Guide 5 accessed 28 April 2020

What Role is National Human Rights Commission (NHRC) Playing to Stop Human Trafficking?

NHRC is ensuring that the vulnerable group (children, women and people with disabilities etc.) are protected from all forms of human rights violations including human trafficking. NHRC in collaborating with relevant stakeholders pursuant to its mandate in the areas of advocacy and sensitization to ensuring that the citizenry is protected from all forms of torture, inhuman and degrading treatment resulting from human trafficking. The Commission through advocacy urges the government both at Federal and State levels to take coordinated, comprehensive and consistent steps to combat human trafficking through human rights-based approach. Similarly, the Commission ensures that human right is mainstreamed in the NAP 200-2026 as well as in all laws, policies etc. relating to human trafficking. The National Human Right Commission Act 2010 (as amended) specifically mandates the management and staff of the Commission³² to facilitate Nigeria's implementation of various treaty obligations in order to aggressively fight against human trafficking in all ramifications.

Some of the Complaints Received by the Commission about Human Trafficking are as Follows

NHRC/ABS/2021/029

The Commission received a complaint dated 15th March, 2021 from D who resides in Abia State. D alleged that her daughter on 24th December 2020 was tricked into travelling to Ghana to work but only to realize upon her arrival that she had been trafficked for sex.

GSO/C/2021/069

The Commission received a complaint dated 12th April, 2021 from D against Y alleging illegal custody of her daughter. D claimed that she gave her daughter to the respondent's sister to work in Maiduguri as a house maid but unfortunately, she found out that her daughter was working in a military bar and when she requested the respondent to return her daughter, he refused.

³² Section 5(a) (h) National Human Right Commission Act 2010 (as Amended)

JG/C/2021/041

The Commission received a complaint dated 29th June, 2021 from Y of Kazaure Local Government Area of Jigawa state alleging that D the respondent who also resides in the same address, engages in trafficking under-aged girls to Lagos State for the purpose of child labour.

NHRC/ABS/2021/030

The Commission received a complaint dated 16th March, 2021 from D who resides at Udeofeme Umuejeih, Umuahia North L.G.A., Abia State. D alleged that Y, her husband has been having sexual intercourse with their house maid and that when she accosted him, he beat her up, took the children from her and chased her out of the home and later married the house maid.

Conclusion

Human trafficking is a violation of human rights. It is essential to place the protection of all human rights at the centre of any measures taken to prevent and end trafficking. To this end, it is important in practical terms to take a human rights-based approach to human trafficking. Human rights-based approach is operationally directed to promoting and protecting human rights. Such an approach requires analysis of the ways in which human rights violations arise throughout the trafficking cycle. It seeks to both identify and redress the discriminatory practices, the impunity for traffickers and that which deny justice to their victims. Under a human rights-based approach, every aspect of the national, regional and international response to human trafficking is anchored in the rights and obligations established under International Human Rights Law. We must all ensure that we intensify our efforts and reitalize our roles in the fight to end human trafficking and reaffirm our pledge to engage meaningfully with survivors and combat human trafficking in all its forms.

Recommendations

It is important that Federal, States, intergovernmental and non-governmental organizations, and where applicable, should consider to continue to awareness campaigns to citizens, at schools, churches, and transit centres, among other places, and expand media outreach through television and radio to educate the public on the dangers of human trafficking.

There is the need to establish mechanisms to monitor the human rights impact of anti-trafficking laws, policies, programmes and interventions. Consideration should be given to

assigning this role to independent National Human Rights Institutions. Non-governmental organizations working with trafficked persons should be encouraged to participate in monitoring and evaluating the human rights impact of anti-trafficking measures.

Furthermore, there is the need to strengthen the legal framework and enforcement mechanisms to stem human trafficking in Nigeria in compliance with best practices.

Short-term and long-term care shelters are a necessary component to comprehensive protection services for survivors of human trafficking. Survivors should be empowered and engaged in meaningful activities that will improve their standard of living.

Improved security and economy of the country to advance living standards and increase life expectancy to prevent the urge of indulging in human trafficking is also necessary.

Improve coordination and synergy among all relevant stakeholders handling human trafficking issues in relation to data, prosecution, to avoid impeded prosecution efforts etc.

Disbursement of sufficient budget for relevant stakeholders handling issues of human trafficking, particularly to provide adequate Victim Care Support as well as to carry out sufficient and proactive anti-trafficking operations in all locations.

Speedy prosecution of human traffickers by the judiciary to avoid slow and corrupt practices which normally impede prosecutions and convictions of human traffickers, and

relevant stakeholders should work in partnership to provide active victim support fund, medical, psychosocial support and psychological treatment for survivors.³³

³³ Need for better support that does not criminalize survivors but protects their rights. Survivor engagement is critical for empowerment and establishing effective victim-centered and trauma-informed system. Adequate Victim support fund and relevant mechanism need to be put in place to stem the tide of human trafficking.

CHAPTER TWENTY- ONE ELECTION AND POLITICAL PARTICIPATION

By

Thomas Ateda A

Introduction

Election and Political participation are vital components of any democratic system of government. This system of governance advocates for the selection of persons by majority vote. Such persons are entrusted with public positions to serve the citizens within a stipulated period. The Federal Republic of Nigeria operates a democratic system of governance, which adheres to the practices and structure contained in democratic principles. The primary requirement to achieve a democratic dispensation is through voting and conducting of elections. Voting in elections has a duty to be guided by democratic principles but the reverse is the position, most times in practice.

Democracy ideologies involve the participation of citizens, the environment and regulatory authorities in adhering to prescribed rule of law for all intents and purposes.¹ The Rule of law refers to a state in which all individuals and institutions, public and private, and the state itself are held accountable to the law, which is supreme. Citizen's participation is a decisive action that showcases the hallmark of administratively voting contestants into political positions in a conducive environment.²

The Justice Uwais-led Electoral Reform Committee stated that "free and fair elections are the cornerstone of every democracy and the primary mechanism for exercising the principle of sovereignty of the people and are therefore a crucial requirement for good governance in any democracy.

¹ U A Dubagari, *The Rule of Law and Electoral Process in Nigeria: A Critical Reflection* (2017) Global Journal of Interdisciplinary Social Sciences 2. Available online at <<https://www.walshmedicalmedia.com/open-access/the-rule-of-law-and-electoral-process-in-nigeria-a-critical-reflection.pdf>> accessed 5 December 2022.

² Main Report of *the Electoral Reform Committee*, Vol. 1, December 2008 1.

Conceptual Clarification

Democracy (*dēmokratia*) is a combination of “³Demos” which means the people and “Kratos” which means to rule, originating from the Greek language. It simply points toward a rule where major undertakings are directly or indirectly decided ⁴by the people for the people. The process whereby the people collectively elect someone to represent their interest is known as election.

Since the era of the Greeks, democracy has evolved into various theories and practices by imbibing best practices and redressing challenges from previous elections. Mahatma Gandhi says “The things that will destroy us are politics without principles, pleasure without conscience: Wealth without work; Knowledge without character; Business without morality; Science without humanity and worship without sacrifice.”

Citizens generally want a better quality of life, so participating in the democratic practice indicates ownership of the process thereby encouraging inclusive principles. An election is a formal method by which electorates cast ballot votes for various positions by processing the contestant’s outlined targets and manifestos. The expectation is that these manifestos will eventually bring into reality, the pressing desires of the general citizens in a democratic dispensation.⁵

Democracy is based on mass participation and political sovereignty; it is an implicit bargain between the government, the citizens and a specific arrangement which regulates that bargain. True democracy is a system of government that is organized by the people to obtain dividends of democracy through their representatives so as to avert being ignored and marginalized at all levels of governmental interactions, thereby checkmating any issue of conflict or marginalization.

Political participation is the basic requirement of democracy.⁶ Political participation is therefore the active involvement of individuals and groups in the governmental processes affecting their lives. It involves a contribution to policy formulations and implementations.

³ C F Agu, *Democracy, Election and Political Participation in Nigeria: 1999-2011* (2015) Journal of Policy and Development Bol. 9 No 5 110 available online at < https://www.arabianjbm.com/pdfs/JPDS_BOL_9_5/10.pdf > accessed 5 December 2022.

⁴ *Abraham Lincoln’s Gettysburg address*, deliberated in 1864.

⁵ M O Osondu, *Democracy and Political Participation in Nigeria: The Case of Imo State in the 2007 General Elections* (2014) International Journal of Development and Management Review Bol. 9 No I

⁶ C F Agu, (n3) 116

In Nigeria, there is a steady decline in electoral participation since the return to democratic rule. This is as a result of irregularities inherent in the political practice. It must be understood that political participation does not mean just voters turning out at the polls. Participation implies breaking down standing barriers to enfranchisement, be it legal, political, or socio-economic and dismantling the barriers inherent in our polity that make political actors or the electorates not to have a free and fair elections.

Legal Framework

Nigeria is a signatory to various covenants, charters, treaties and legal instruments that promote political participation. The scope and nature of political participation are found in these sets of laws, rules and regulatory provisions. In the international outlook, there is no specific international covenant on elections but rather, what exists are electoral standards.

International

The following instruments are of concern for political participation:

1. The Universal Declaration of Human Rights 1948
2. The International Covenant on Civil and Political Rights 1966

Article 25 states: "*Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions: a) To take part in the conduct of public affairs, directly or through freely chosen representatives; b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors; c) To have access, on general terms of equality, to public service in his country*".

Regional

At the regional level Nigeria is a party to the following:

1. African Charter on Democracy, Elections and Governance, 2007

Article 17 says "*State Parties re-affirm their commitment to regularly holding transparent, free and fair elections in accordance with the Union's Declaration on the Principles Governing Democratic Elections in Africa*"

2. ECOWAS Protocol on Democracy and Governance

National

On the domestic front, the Independent National Electoral Commission (INEC) is the apex regulatory authority assigned to conduct and deal with all relevant election matters. The most vital laws which govern elections in Nigeria are:

1. The 1999 Constitution of the Federal Republic of Nigeria
2. The Electoral Amendment Act 2022
3. The INEC Regulations and Guidelines for the Conduct of Elections 2019

The most exciting of the domestic laws, is the Electoral Amendment Act 2022, which was recently signed on 25th February 2022 by President Muhammadu Buhari. The Amended Act has the sole mandate to regulate the conduct of Federal, State and Area Council elections. The Act makes available a better electoral process for Nigerians. It promises amongst other new provisions, to transmit results electronically, which will help curtail doubt about the credibility of election results. Other notable provisions in the new laws are:

1. Section 3(3): Early Release of Funds to INEC.
2. Section 29(1): Early Conduct of Party Primaries and Submission of Candidates' Lists.
3. Section 29(5): Candidates to Seek Judicial Review of False Information.
4. Sections 47 & 50(2): Legitimization of E-Voting/Transmission of Result.
5. Section 84(12): Political Appointee Not Eligible as Voting Delegate or Aspirant.
6. Section 65: Review of Election Results Declared Under Duress.

It is worthy of note that, citizens have shown that they lack trust in elections, hence refuse participation in major political activities in Nigeria. There has been a steady decline in people carrying out their election duties as a result of numerous abnormalities inherent in the democratic process. The National Population Commission estimates that Nigerians are over 215,000,000 (Two hundred and fifteen million) while only a total of 73,528,040 voters were registered in the 2011 Presidential Election which represents only 36% of the population.⁷ INEC is checkmating this lack of interest by ⁸Section 10 of the Nigeria Electoral Act 2022 in:

(2) Each applicant for registration under the continuous registration system shall appear in person at the registration venue with any of the following documents:

- (a) birth certificate;

⁷ This is according to the National Bureau of Statistics

⁸ Available online at <https://lawglobalhub.com/> accessed 22 August 2022.

- (b) national passport, identity card or driver's license; or
- (c) any other document that will prove the identity, age and nationality of the applicant.

Conclusion/Recommendation

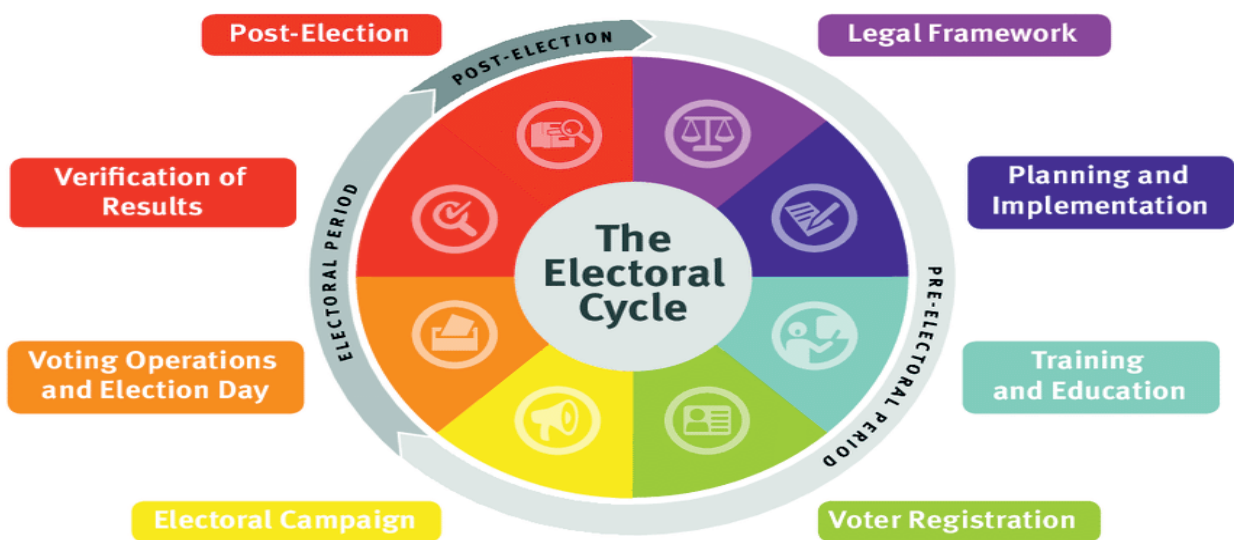
The National Human Rights Commission (NHRC) is mandate-driven to carry out roles and function that serve as an extra-judicial mechanism for the enjoyment and respect of human rights in Nigeria. Its vision statement encourages entrenching a culture of promoting national values which are built on principles of democracy, accountability, and respect for the rule of law.

The Commission's objective inspires the right to development in the Country, which is an offshoot of achieving a functioning democratic dispensation in Nigeria. NHRC regularly carries out monitoring exercises with its accredited staff during the various stages of elections. The monitoring exercise promotes electoral accountability and fairness to all the contestants in the political race. It also checks security personnel's conduct during the elections.

Recommendation

1. The Commission should have continuous engagement with relevant stakeholders to ensure compliance with the promotion, protection and enforcement of a rights-based approach to elections and political participation.
2. There should be constant voter education with emphasis on the ills of buying/selling votes as well as sensitization activities on the enhanced provisions contained in the Electoral Amended Act 2022.
3. As illustrated below, research and documentation of past/ongoing election cycle trends and patterns should be studied to predict possible indices and scenarios to enable adequate preparation for improved performance in future elections.⁹

⁹ I Briscoe and D Goff, *Protecting Politics: Deterring The Influence of Organized Crime on Elections*, available online at https://www.researchgate.net/publication/316439250_Protecting_Politics_Deterring_the_Influence_of_Organized_Crime_on_Elections accessed 22 August 2022



CHAPTER TWENTY-TWO

THE RIGHTS OF PERSONS WITH DISABILITIES

By

Oluchi Y Adieze

Introduction

It was not until recently, that persons with disabilities (PWDs) began to enjoy their rights and freedoms to some extent. Prior to that, persons with disabilities experienced various forms of stigmatization, discrimination, marginalization amongst others due to the perception of disability as a curse or ill luck. Consequently, persons with disabilities suffered harmful traditional practices perpetrated on them such as violent attacks for ritual purposes thereby depriving them of their rights and freedoms on grounds of their disabilities. Sadly, disability is still misconceived as a curse in most communities with the population of PWDs in Nigeria approximately 29 million in 2018¹. This is despite the passage of the Discrimination Against Persons with Disabilities (Prohibition) Act 2018 and Nigeria being signatory to the United Nations Convention on the Rights of Persons with Disabilities. It is pertinent, bearing in mind the prediction of the World Health Organization, that almost everyone will temporarily or permanently experience disability at some point in their life and that the number of persons with disabilities is increasing.² Consequently, disability inclusion and mainstreaming becomes an idea of paramount importance.

Until recently, the efforts made to mainstream disability in Nigeria was within the context of charity and welfare by both public and private institutions. However, the social model of disability perceives disability, as the social exclusion and barriers in accessing services, rather than bodily function. The model therefore, views disability as a socially produced injustice which it is possible to challenge and eliminate through radical social change³. Thus, the

¹ World Bank Group, Open Knowledge Repository 'Report, Disability Inclusion in Nigeria: A Rapid' Assessment, available online at <<https://openknowledge.worldbank.org/handle/10986/34073>> accessed 14 August 2022.

² WHO, Disability, available online at <https://www.who.int/health-topics/disability#tab=tab_1> accessed on 14 August 2022.

³ A Lawson, 'The Social and Human Rights Model of Disability' (2021) Volume 25, Issue 2, available online at <https://www.tandfonline.com> accessed 25 August 2022.

environment, social and attitudinal barriers prevent persons with disabilities from maximum participation in societal activities.⁴

The human rights model is based on the human rights principles which views disability as part of human diversity that must be respected and supported in all its forms. This chapter therefore focuses on the rights of persons with disabilities in Nigeria and challenges to the full enjoyment of these rights as well as the need for scale up the implementation of the Disability Rights Acts.

Conceptual Clarification of Terms/Definition

Disability is however, defined as a condition or function judged to be significantly impaired relative to the usual standard of an individual or group⁵. Persons with disabilities include those who have mental, physical, psycho-social, intellectual, neurological, developmental or other sensory impairments which in interaction with environmental, attitudinal or other barriers hinder their full and effective participation in the society on an equal basis with others.⁶ Accessibility refers to the ability to access on equal basis with others physical facilities and services.

Discrimination on the basis of disability refers to distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation⁷.

Rights of persons with disabilities

Human rights are rights accrued to every person by virtue of being human such as right to life, right to dignity of human persons, right to fair hearing, right to freedom from discrimination on grounds of ethnic group, place of origin, circumstance of birth, sex, religion or political opinion irrespective of disability etc. The human rights model based on

⁴ Federal Ministry of Women Affairs and Social Development 'Report of the Baseline Survey on Persons with Disabilities (PWDs) in Nigeria' (2011) 005

⁵ Disabilities: Types and Models, available online at <<https://www.disabled-world.com/disability/types/>> accessed on 14 July 2021

⁶ African Union 'African Charter on Human and People's Rights, available online at <https://au.int/sites/default/files/treaties/36440-treaty-protocol_to_the_achpr_on_the_rights_of_persons_with_disabilities_in_africa_e.pdf> accessed on 19 July 2021

⁷ Convention on the Rights of Persons with Disabilities and Optional Protocol, available online at <<https://www.un.org/disabilities/documents/convention/conftoptprot-e.pdf>> accessed 20 July 2021

the human rights principles advocates inclusion and mainstreaming of disability in policies and legislation ensuring respected and supported in all its forms. Accordingly, persons with disabilities are entitled to these rights.

Right to Education of persons with disabilities

Persons with disabilities particularly children with disabilities are entitled to right to education as persons and children without disabilities. However, the challenge of lack of equal access to education for PWDs is based on the fact that most families and teachers do not foresee the necessity in educating children with disabilities. In addition, many Nigerian schools are not accessible to persons with disabilities and are unwilling to accept children with disabilities; rather PWDs are segregated to special schools where they are trained to acquire non-academic skills such as vocational skills, therefore an inclusive education for persons with disabilities highly advocated as it has resulted in persons with disabilities being relegated to the lowest level in the society. Also even when PWDs are given quality education and well catered for by their families, the society still perceives them as inferior.

Right to work

Although there are no precise data on the employment of PWDs, there is however, under-employment and underrepresentation of PWDs in the labour market. Persons with disabilities have decried that the rate of unemployment among them are almost double that of the overall population. Among other contributory factors such as physical, mobility-related and technological to unemployment of PWDs include finding it burdensome and costly in providing a disability friendly environment and office space by many employers of labour. Persons with disabilities are therefore exposed to unsafe working conditions. They resort to begging in order to gain means of livelihood.

However, the Discrimination against Persons with Disabilities (Prohibition) Act, 2018 in Part BI, Section 28 provides opportunity for employment⁸. It stipulates that ‘A person with disability has the right to work on an equal basis with others, this includes right to equal opportunity to gain a living by work freely chosen or accepted in a labour market and work-open environment’. Moreover, Section 29 provides that at least 5% of employment in all Government institutions shall be given to persons with disabilities. However, persons with disabilities do not constitute 5% of employees in most organizations. They continue to

⁸ Part BI, Section 28, Discrimination Against Persons with Disabilities (Prohibition) Act 2018

experience frequent denial of job opportunities. The denial of their economic rights make them financially dependent. Notably, some States in Nigeria such as Delta and Lagos States have disabilities mainstreamed in their employment. For instance, Delta State since 2005 reserves 5% of all available positions in the State recruitment exercises for PWDs while the Lagos State government in October 2016, inaugurated the Governing Board of the Office for Disability Affairs. The Board manages a five hundred million naira (N500 million) Disability Trust Fund for persons with disabilities in the State. PWDs are also eligible to access twenty-five Billion (N25 Billion) Employment Trust Funds in the State as well.

Right to health

Persons with disabilities have expressed how they find it difficult to access healthcare for their basic health needs. Majority of persons with disabilities in Nigeria are identified among the poorest of the poor. In many health centres, due to unavailability of sign language interpreters, PWDs pay extra for hiring a sign language interpreter, many of the assistive devices are exorbitant and not subsidized by the government. Hence, due to financial barriers, many PWDs are unable to acquire these devices. Other barriers include limited or no access to information and communication on their diagnosis, medical records and available services and programmes pertaining to their disabilities as well as those services which are generally available to the general public. Persons with disabilities also experience discrimination in healthcare by non-persons with disabilities in the hospitals, some hospital personnel, nurses and doctors.

Barriers faced by persons with disabilities in Nigeria

In Nigeria, persons with disabilities are faced with various barriers encountered on a daily basis. These include inaccessible physical facilities, transportation, healthcare, education, unavailability of assistive devices, lack of means of communication, discrimination, prejudice, stigma etc.

Financial Barriers

Persons with disabilities are often less educated and with little or no skills due to the society's perception in seeing no need to train or educate PWDs. Therefore, many PWDs are poor and are faced with financial barriers. These hinder their access to food, medical cost for their disabilities, upkeep and personal needs as well as purchase of assistive devices which are expensive and not easily available.

Attitudinal barriers

The society's misconception of disability as a curse or ill luck is reflected in the negative attitudes toward PWDs. Even when persons with disabilities possess skills and knowledge that can contribute to economic growth, they are often underrated, neglected and relegated.

It is a generally believed perception that employers of labour especially in the private sector dwell on physical disabilities rather than focus on skills. They deny the PWDs the economic rights and the opportunity to participate in economic programmes, policies, planning and projects irrespective of their academic qualifications. These attitudinal barriers lead to improper job placement, lower expectations at work among others of PWDs. Employers of labour are expected to see beyond the disabilities as most PWDs are blessed with excellent intellectual abilities.

Physical barriers

Physical barrier is one of the major barriers faced by persons with disabilities. For example, public buildings and vehicles are not accessible to persons with disabilities due to unavailability of ramps and lifts. They face structural limitations and challenges that make workplaces as well residential accommodation inaccessible.

Communication barrier

Access to communication has also been a major barrier to persons with disabilities, especially the Deaf and the Blind. The unavailability of signs, sign language interpreters, brails and tactile at various public and private organizations deprive them opportunities and services for their full participation in the society.

Legal Framework

International

The Convention on the Rights of Persons with Disabilities (CRPD) and its Optional Protocol, aim to protect the rights and dignity of PWDs. The Convention explicitly prohibits for full enjoyment of human rights for women and children with disabilities by Member States. Both instruments enjoin member States which are signatories to the Convention to protect, promote and ensure full enjoyment of human rights by PWDs. Nigeria signed and ratified the Convention and its Optional Protocol on 30th March, 2007 and 24th September, 2010 respectively.

Regional

Similarly, the African Charter on Human and Peoples Rights on the Rights of Persons with Disabilities also provides for full enjoyment of human rights of persons with disabilities. The Protocol to the African Charter on Human and Peoples Rights on the Rights of Persons with Disabilities is yet to be adopted by majority of Member States. Considering the diverse cultural beliefs and practices in Africa, the protocol provides for the rights of women and children with disabilities and for PWDs to have special measures of protection in keeping with their physical or moral needs. The protocol specifically covers protection from harmful traditional practices such as witchcraft, abandonment, concealment, ritual killings or the association of disability with omens. It also provides for assistance to victims of harmful practices such as legal sanctions, advocacy campaigns. Also contained in the Protocol include the prohibition of the use of derogatory language, stereotyping of PWDs etc.

Unfortunately, Nigeria is yet to sign and ratify this protocol, therefore this paper calls for the urgent signing and ratification of the protocol not only by Nigeria but other African countries.

Domestic

The 1999 Constitution of the Federal Republic of Nigeria (as amended) is enacted on the principles of freedom, equality and justice which are realized through various rights enshrined in it, such as right to life, dignity of human persons, freedom from discrimination⁹ etc. Therefore, the Constitution guarantees the enjoyment of these rights in Chapter II and IB to citizens inclusive of persons with disabilities. Although there are no specific provisions for the protection of rights of PWDs, the Constitution which is the fundamental law of the country, guarantees the right to freedom from discrimination on grounds of circumstances of birth (disability) Section 42 (2) provides ` ‘No citizen of Nigeria shall be subjected to any disability or deprivation merely by reason of the circumstances of his birth’.

Chapter IB S.33(1) of the Constitution provides that every person has right to life, S.34 (1) Every individual is entitled to respect for the dignity of his person, and accordingly S.34(1)(a) provides that no person shall be subject to torture or to inhuman or degrading treatment; S.35 liberty.

The Discrimination against Persons with Disabilities (Prohibition) Act 2018

Nigeria signed into Law, the Discrimination Against Persons with Disabilities (Prohibition) Act 2018, also known as Disability Rights Act after several years of advocating for its

⁹ 1999 Constitution of the Federal Republic of Nigeria (as amended)

passage. The Disability Rights Act was enacted to address the violations persons with disabilities have always experienced at all levels. The Act provides for full inclusion of persons with disabilities in the society as well as eliminates barriers in order to attain full enjoyment of rights in accessing healthcare, transportation, education, employment, information amongst others¹⁰. It also enables PWDs, right to seek for justice for any disability-related violations either by individuals or corporate entities. The Disability Rights Act also provides for the establishment of the National Commission for Persons with Disabilities which has since commenced operation.

While the implementation has been a huge challenge since its enactment, there has been continued denial to the attainment of rights of PWDs that would enable them reach their potentials in life. Out of the 36 States in Nigeria, -Lagos, Bauchi, Nasarawa, Kwara, Ekiti, Anambra, Kogi, Kano, Jigawa and Plateau, have State Disability laws.

Human rights violations of the rights of persons with disabilities

Persons with disabilities have recently been experiencing various forms of human rights violations. This is on the increase despite the Disability Rights Act in place. For instance, a man with physical disability was made to pay extra on wheelchair¹¹ while another was denied access to check in his wheelchair. Also a Deaf lady was refused to board with her interpreter by another airline¹² while a nursing mother with physical disability was also discriminated against by one of the airline operators as well.

Other reports include caution by Law Enforcement Agencies to PWDs not to drive, unwillingness by transporters to convey PWDs because of their callipers or wheelchairs, marginalization of albinos during recruitment with Law Enforcement Agencies etc.

Media report on rights of persons with disabilities

1. On 3rd September 2021, Daily Trust Newspaper at page 29 reported that the National Commission for Persons with Disabilities has said 40,000 PWD have been captured to participate in the 2021 Batch C N-Power programme.

¹⁰ Discrimination Against Persons with Disabilities (Prohibition) Act 2018

¹¹ Inclusive News Network 'Dana Air slams extra N9,000 on passenger on wheel chair' March, 2021 <http://inclusivenews.com.ng/2021/03/23/20113/> accessed 20 April 2021

¹² Inclusive News Network 'Dana Air has left me stranded in Lagos-Woman with Disability narrates her harrowing experience', available online at < <http://inclusivenews.com.ng/2021/03/23/20132/>> accessed 20 April 2021

Conclusion

While recognizing that disability is evolving with attitudinal and environmental barriers being huge challenge in Nigeria, the inclusion and mainstreaming of disability in all spheres is of paramount importance for the actualization of rights of PWDs.

Recommendation

There should be speedy implementation of the Disability Rights Act. Intensified efforts are also needed for the enactment of the Disability Rights laws at the State level.

CHAPTER TWENTY-THREE

BUSINESS AND HUMAN RIGHTS

By

Pwadumdi J. Okoh*

Introduction

Human Rights are basic rights and freedoms that protect us all. They are based on dignity, fairness, equality, and respect. Businesses have a significant impact on the way we live our life and enjoy these human rights, whether it's as an employee, a customer or simply living alongside companies that share our cities and towns. Both are necessary for sustainable development, and none should be sacrificed while promoting the other.

This chapter will explore the critical role businesses play in relation to human rights, including how businesses can use the framework of the United Nations Guiding Principles on Business and Human Rights (UNGPs) for the promotion and protection of human rights.

The chapter also seeks to deepen understanding of the UNGPs by delving into its history and significance, and by providing an overview of the human rights due diligence (HRDD). It will further provide a roadmap on practical examples on how businesses can advance human rights including a brief on the voluntary principle on security and human rights which is a component of Business and Human Rights.

The Protect, Respect and Remedy policy framework for business and human rights put forward by Prof. John Ruggie, the UN Special Representative for Business and Human Rights requires that State have a duty to protect, Companies have a responsibility to respect human rights (to act with due diligence to avoid infringing the rights of others) and for effective and speedy access to remedy mechanism.

At the 10th International Conference of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights in Edinburgh, Scotland, 2010, the Working Group on Business and Human Rights tasked itself with the responsibility of addressing the immense violations within the business sector and the role of the various National Human Rights Institutions.

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In 2011, the United Nation issued a set of principles to define the responsibilities of government and corporations in resolving business related abuses and violations, pursuant to the Resolution 17/4 of which Nigeria was a co-sponsor.

The relationship between business and human rights is of central importance in our increasingly globalized economy.¹ For years, business has been linked to severe violations of human rights, from sweatshop conditions in factories to Shell's involvement in violence in Nigeria. Still, debates have raged about the precise responsibility corporations have for such abuses under international law².

When people think of human rights abuses associated with business activities they may think of sweatshops in foreign countries where child labour and unsafe working conditions are common place³. Companies with an online presence will need to make sure that they respect people's right to privacy and uphold data protection laws, home-care providers need to treat the people they look after with dignity and respect. All businesses have an obligation to ensure safe working conditions for their staff.

It is no longer a revelation that companies have some responsibility to uphold human rights i.e. they are to observe due diligence.⁴

Conceptual Clarification of Terms

Business and human rights

Human Rights are those entitlements that are ours by virtue of the fact that we are human beings, they are universal, inalienable, indivisible and interconnected.

These Rights are contained in Chapter IB of the 1999 Constitution of The Federal Republic of Nigeria as amended and are known as Fundamental Rights – These rights guaranteed under this chapter are essentially, the Civil & Political Rights guaranteed in major International Human Rights Instruments. They are also referred to, and form the bedrock of the first generation rights – they relate to the sanctity of the individual and his rights within the socio-political environment in which he resides. Fundamental rights seek to protect and

¹ Tyler Giannini, 'Business and Human Rights' Harvard Law, available online at <<https://hrp.law.harvard.edu/areas-of-focus/business-human-rights/>> accessed 17 April 2022

² ibid

³ Equality and Human Rights Commission, available online at <[Human rights and business | Equality and Human Rights Commission \(equalityhumanrights.com\)](https://www.equalityhumanrights.com/)> accessed 17 April 2022.

⁴ ibid

safeguard the individual whether alone or as a group against abuse of power, especially by the political authority.

The 1999 Constitution of the Federal Republic of Nigeria (as amended) is the basic law of the country. Section 1(1), (3) reiterates its supremacy and states that any law inconsistent with its provisions shall be null and void to the extent of its inconsistency. To redress fundamental human rights infringement, the Constitution empowers any person who alleges infraction “in relation to it” to apply to the High Court for redress. This means that the rights under Chapter 4 can be enforced by the courts. The rights under Chapter 2 on the other hand are non-justiciable though enforceable through administrative mechanisms like the National Human Rights Commission and other established bodies. This also means that they cannot under the current circumstances be determined nor decided by courts in Nigeria⁵

Like any facet of the human experience, human rights have a role to play in the ethical conduct of business activities. Business increasingly recognizes the importance of human rights. Over 5,000 companies across 130 countries and signatories to the UN Global Compact have committed themselves to the Global Compact’s ten principles including six that address Human rights and labour standards⁶ A 2006 survey of Global Fortune 500 companies found that nine out of ten companies responding to the survey reported having human rights principles or management practices in place⁷. More than half of the FTSE 100 listed companies have adopted a human rights policy. Meanwhile, the process of clarifying and operationalizing business and human rights is being led by the United Nations Secretary General’s Special Representative on Business and Human Rights (the Special Representative).⁸

Government has the obligation to respect, protect and fulfil human rights, including protecting individual and communities from human rights violations by third parties. In June 2008, the United Nations Human Rights Council emphasized for the first time that corporations have a responsibility to respect human rights. Corporations, non-governmental

⁵ See, Section 6(6) (c)

⁶ Oghenyoma Rhoda Odjighoro, *The legal framework for business and Human Rights in Nigeria*, available online at <[The Legal Framework for Business and Human Rights in Nigeria – UN Global Compact Network Nigeria \(unglobalcompactng.org\)](http://The Legal Framework for Business and Human Rights in Nigeria – UN Global Compact Network Nigeria (unglobalcompactng.org))> accessed 21 April 2022

⁷ *ibid*

⁸ *ibid*

organizations (NGOs), trade unions, and indeed private individuals, often act in ways that can affect the rights of others. For example, employer that discriminates against an employee on certain grounds, such as race or gender, harms individual's rights to freedom from discrimination. As reflected in the statement of the Human Rights Council, there is an increasing public expectation for companies to respect human rights and also to strengthen their positive human right contribution⁹.

There is an increasing public expectation for companies to respect human rights and also to strengthen their positive human rights contribution.

The United Nations Guiding Principles on Business and Human Rights (UNGPR) gives a framework on how government and businesses are to protect and respect human rights, including what mechanisms are to be put in place to reduce, mitigate and redress business-related violations¹⁰

Businesses in Nigeria are generally encouraged to comply with global standards for the protection and promotion of human rights as it relates to their activities. Due compliance with global standards for the promotion of human rights provides certain commercial and social benefits for the business. Some of such benefits include:

- Increased productivity, loyalty, and commitment from employees.
- Reduced risk of corporate espionage or malicious attacks.
- General improvement of the business brand and reputation.
- Reduced risk of customer dissatisfaction, protest, or being exposed to the 'cancel culture'.
- Better chances of partnering with other international organizations who respect and promote human rights.
- Attracting more top quality employee talents, while retaining those they already have.
- Enhanced shareholder/investor trust and confidence¹¹.

In ensuring corporate sustainability through the protection of human rights, the UN Global Compact has created a principle-based approach for businesses to be able to meet their fundamental responsibilities in the area of human rights. The UN Global Compact established

⁹ ibid

¹⁰ OHCHR, available online at <https://www.ohchr.org/en/publications/reference-publications/guiding-principles-business-and-human-rights> accessed 22 August 2022

the Ten Principles for corporate sustainability which were derived from the Universal Declaration of Human Rights, the International Labour Organization's Declaration on Fundamental Principles and Rights at Work, the Rio Declaration on Environment and Development, and the United Nations Convention Against Corruption

Legal Framework

In enhancing the legal framework of business and human rights in Nigeria, it is important to practically examine what businesses can do to properly incorporate the principles of the UN Global Compact. The first and second principles of the UN Global Compact state that "Businesses should support and respect the protection of internationally proclaimed human rights and should ensure that they are not complicit in human right abuses".

Businesses seeking to incorporate these principles must have due regard and respect for the fundamental human rights as provided in Chapter IB of the 1999 Constitution (as amended) as well as other international conventions that protect human rights such as the Universal Declaration of Human Rights. A practical example of how this can be achieved is by businesses being conscious of the right to life and dignity of person by ensuring that they do not endanger the lives of their employees or expose their employees to inhumane or degrading treatment.

The third principle of the UN Global Compact provides that "Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining." The right to freely associate is also protected under Chapter IB of the 1999 Constitution (as amended). The right of employees in Nigeria to join trade unions is also duly protected under the Trade Unions Act 2004. In imbibing this principle, businesses should ensure that they do not restrain their employees from joining duly registered trade unions.

The fourth principle of the UN Global Compact provides that "Businesses should ensure the elimination of all forms of forced and compulsory labour." In addressing the provisions of this principle, due recourse must be made to the Nigerian Labour Act. Section 73 of the Nigerian Labour Act expressly prohibits all forms of forced and compulsory labour.

For the avoidance of doubt, forced labour has been defined under Article 2 (1) of the International Labour Organization Forced Labour Convention 1930 (No.29) as "all work or service which is exacted from any person under the threat of a penalty and for which the person has not offered himself or herself voluntarily." As such, businesses must ensure that

their employees or workers are voluntarily engaged and not forced to work or provide a service under the threat of a penalty or under intimidating circumstances.

The fifth principle of the UN Global Compact states that “Businesses should enhance the effective abolition of child labour.” Child labour remains a prevalent issue in Nigeria, with about 47.5% of children between the ages of 5 – 14 being unlawfully engaged in various forms of child labour. Under the Nigerian Child’s Right Act, a child is simply a person under the age of 18 years and in incorporating this principle, businesses must ensure that they carry out due background checks and only employ people who are above the age of 18 years. The sixth principle of the UN Global Compact prohibits for “the elimination of discrimination in respect of employment and occupation.” Section 42 of the 1999 Constitution (as amended) protects individuals from being discriminated based on their gender, ethnicity, religion or political views. In furtherance of this principle, businesses must ensure that they do not discriminate against anyone in the process of recruiting, retaining, or promoting their employees.

International

The Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights are some of the treaties that Nigeria is a signatory to. Nigeria is also a member of the UN Human Rights Council Resolution 17/4 as well as a co-sponsor of the UN Guiding Principle on Human Rights and Business.

Furthermore, Nigeria was an early signatory to the African Charter on Human and Peoples Rights – another important international human rights covenant that includes many provisions on economic and social rights. Nigeria in 1983- even under military dictatorship- domesticated the provisions of the African Charter through a military decree.

The African Charter is now part of the Laws of the Federation and ranks just below the Constitution in the hierarchy of laws in Nigeria.

In addition to the above mentioned treaties, Nigeria has also signed in 2000 the *Bamako Convention on the Ban of Import into Africa and Trans-Boundary Movement of Toxic and Hazardous Waste 1991*. Nigeria is also guided by many other International and Regional obligations and instruments ranging from the *Vienna Convention on the protection of the Ozone Layer*, the *Framework Convention on Climate Change*, *Ramsar Convention on*

Wetlands of International Importance to Article 5 of the African Charter on Human and Peoples' Rights These instruments recognise the right to work under equitable and satisfactory conditions and the right to equal pay for equal work as well as the International Labour Organization Conventions ratified by Nigeria.

The Nigerian State did not just ratify and domesticate some of their obligations, but also established agencies that have cross-cutting mandate to give effective remedy to violations and business related conflicts.

Domestic

Business and Human Rights broadly speaking cover three major areas: Land, Labour and Environment. In view of the major issues covered by it, there had been local legislation that the government of Nigeria has enacted and established to effectively promote and protect the rights of the citizens from being arbitrarily violated in addition to the 1999 Constitution of the Federal Republic of Nigeria.

Take for instance, human right issues as it relates to land has been taken care by the Constitution. Section 44(3) vests all powers of land *et al*, on the government.

The second major aspect covered by Business and Human Rights are environmental issues, ranging from degradations, pollution to flood. This aspect has also been taken care of by legislation to cater for the various abuses and violations.

The Nigerian Government has established other agencies, boards and several policies to show its commitment to ensuring that the rights of Nigerians are respected by companies and to protect these rights in addition to effective and speedy remedy.

The Companies and Allied Matters Act is another legislation of the government to ensure that business operators are regulated. It is also recommended that the UN Guiding Principle be made to become a binding requirement for companies and intending companies who want to and are doing business within the Nigerian territory.

Regarding the third component which is Labour, the government of Nigeria has further put in place many policies, agencies to tackle the effective promotion and protection of human rights amongst its citizenry in the following ways:

The National Workplace Policy (HIV/AIDS) ensures that people's rights are not violated in the workplace as a result of their health status.

Trade Union (Amendment) Act, 2004 in various regulates the relationship between the employers and business owners to ensure that their terms of employment and actions meet the relevant human rights standards.

In addition to these legislation, there exists a series of National policies and administrative steps aimed at ensuring the ethical conduct of businesses in a way that adheres to basic Human Rights principles. Some of these policies and administrative steps include:

- Nigerian Code of Corporate Governance, 2018
- Nigeria Data Protection Regulation, 2019
- Establishment of Committees on public petition, human rights and justice in the National and State Houses of Assembly

Establishment of Tribunals and National Industrial Court

Voluntary Principle on Security and Human Rights:

The Voluntary Principle Association was established in year 2000 pursuant to the killing of the nine environmental activists including Ken Saro-Wiwa in Ogoniland in 1995 by the military regime of General Sani Abacha. The killings were condemned globally, with likeminded countries coming together to establish an association to reduce the wanton killings in the extractive industry.

The Association was established as a tripartite multi-stakeholder initiative that brings together governments, extractive companies and non-governmental organizations to discuss, improve and promote key principles as well as adhere to best practices on security and human rights.

It is also worthy of note that the Association is not a treaty neither is there a legally binding commitment amongst members but shared commitment to see human rights mainstreamed in the operation of security personnel drafted to protect companies in the extractive sector. This shared commitment led stakeholders to develop set of principles designed to enhance security in the extractive sector of member countries in a manner that respects human rights.

Nigeria Journey so far

Nigeria has been participating as an Observer in the Annual Plenary Meetings of the Voluntary Principles Initiative (BPI) since 2014. In 2016, Nigeria, along with Ghana and

Myanmar, were selected among the pilot-countries for the BPI and to ensure an all-in-one process, a Pilot Working Group was established to drive the BPI in Nigeria.

Members of the Working Group were drawn from relevant MDAs including the Federal Ministries of Justice, Defence and Petroleum Resources, National Human Rights Commission, Nigeria Security and Civil Defence Corps, as well as companies and NGOs.

Although Nigeria is not an official member of the Initiative yet, it has shown profound interest and active engagement on the subject matter over the years. This is evident in the several strategies that have yielded tremendous results.

These strategies included the birth of the Nigerian Working Group in 2017 (although we have been attending plenaries since 2014), appointment of focal officers in the various relevant Ministries and MDAs, building capacity of these Ministries, MDAs, Security Personnel and Communities, hosting the Steering Committee Members in 2018 as well as the establishment of the inter-ministerial committee on the Voluntary Principle on Security and Human Rights which has helped drive the realization of the goal to be a member of the association.

Media reports on business and human rights

1. On 8th September 2021, The Guardian Newspaper at page 5 reported that the Director General, National Youth Service Corps (NYSC), Brig-Gen. Shuaibu Ibrahim, has expressed concern over the rate of unemployment in the country.
2. On 14th September, 2021 Daily Trust Newspaper at page 4 reported that judicial activities in Ogun State had been paralysed following the industrial action embarked upon by Judicial Staff Union of Nigeria (JUSUN) in the state. Report had it that the court in Ogun State had been under lock and key since August 11 when the industrial action began.
3. On 24th September, 2021 The Guardian Newspaper at page 15 reported that a report on the impact of COVID-19 on business enterprise in Nigeria by the National Bureau of Statistics (NBS), stated that unless targeted interventions that will help accelerate economic recovery and create business environment are deployed, there is potential trouble for economic recovery.

Conclusion/ Recommendation

Business is a major contributor to economic growth around the world and, as an essential vehicle for human progress, it helps underpin global human rights. An increasing number of companies are demonstrating their respect for human rights by working to embed international human rights standards within their core business practices. Many countries also make a substantive contribution by supporting projects that foster human rights, such as the enhancement of local economic development programs that provide training in democracy and the rule of law.

Going by the discussion so far, it is comprehensible to say that good human rights practice brings about commercial rewards. There is growing evidence that good practice enhances reputation, resulting in improved staff morale, leading to higher motivation, productivity, and the ability to attract and retain the best employees, strengthens the license to operate, gives improved access to new markets, consumers and investors, creates more stable operating environments and promote better community relations.

On this postulate, it is worthy to recommend that provision of specific human rights training to support operational managers to become more familiar with the language and realities of human rights, the company's human rights policy commitments, and the potential of human rights to impact on the day to day business decision-making, is increasingly, a feature of effective business operations. These efforts will help a business to identify business opportunities to support human rights.

The Chapter also recommends that businesses operating in Nigeria should ensure that they conduct Human Rights Due Diligence from onset, which should identify possible human rights violations arising from their operations. Human Rights Due Diligence should address negative human rights impact which may be linked directly or remotely to business operations, products or services. Where a state directly engages in business, government assumes dual roles- i.e. the International Human Rights obligation to Protect is retained; and having delved into business, it also has additional obligation to Respect human rights from a corporate perspective.

Finally, the Ministry of Labour and Employment should take steps to curb the incidence of casualization in labour as well as hazardous workplace practices. Accordingly, it should strengthen its monitoring and implementation processes to give effect to applicable laws. Where the laws are not in compliance with human rights standards, they should be reviewed.

Adequate education of the public should be carried out to empower them to demand for a letter of contract/engagement from employers irrespective of the nature or duration of the engagement.

