2024 STATE OF HUMAN RIGHTS REPORT

NATIONAL HUMAN
RIGHTS COMMISSION

2024
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REPORT

EDITED BY

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

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ISBN: 978-978-694-676-4

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Published by

NATIONAL HUMAN RIGHTS COMMISSION
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P.M.B, 444, Garki Abuja FCT, Nigeria.
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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 Organization
CCB/CCT	Code of Conduct Bureau/ 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 a Child

D

DPO	District Police Officer

E

ECOWAS	Economic Community of West African States
EFCC	Economic Financial Crimes Commission
ESC	Economic Social and Cultural Rights

F

FBO	Faith-Based Organizations
FCT	Federal Capital Territory
FEC	Federal Executive Council
FGM	Female Genital Mutilation
FOIA	Freedom of Information Act
FREP	Fundamental Rights Enforcement Procedure Rules

H

HIV	Human Immuno-Deficiency Virus
HRC	Human Rights Council

I

ICCPR	International Covenant on Civil and Political Rights
ICERD	International Covenant on the Elimination of Racial Discrimination
ICESCR	International Covenant 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

M

MDAs	Ministries, Departments and Agencies

N

NPF	Nigeria Police Force
NHRC	National Human Rights Commission
NA	Nigerian Army
NACS	Nigerian National Anti-Corruption Strategy
NAFDAC	National Agency for Food and Drug Administration and Control
NAPTIP	National Agency for the Prohibition of Trafficking in Persons
NCS	Nigerian Correctional Center
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 High Commission for Human Rights

P

PWDs	Persons with Disabilities

S

SAN	Senior Advocate of Nigeria
SARS	Special Anti-Robbery Squad
SDGs	Sustainable Development Goals
SGBV	Sexual Gender-Based Violence
SMRTP	Standard Minimum Rules for the Treatment of Prisoners
SSD	Safe Schools Declaration
STORP	Standing Orders and Rules of Procedure

T

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

U

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

V

VAPPA	Violence Against Persons Prohibition Act

W

WHO	World Health Organization

FOREWORD

Human rights are the bedrock of a just and equitable society. They are inherent, inalienable, and universal, belonging to every individual regardless of background or circumstance. The National Human Rights Commission (NHRC) of Nigeria, established by the National Human Rights Commission Act of 1995 (as amended), plays a crucial role in safeguarding these rights, promoting a culture of respect for human dignity and holding accountable those who violate them.

This 2024 Human Rights Situation Report in Nigeria is a vital resource, providing a comprehensive and nuanced understanding of the challenges and opportunities facing Nigeria in its pursuit of a society where human rights are truly protected and respected. This report, mandated by Section 5(c) of the NHRC Act, is not just a collection of data; it is a call to action.

The contributions within these pages address diverse human rights issues, from the right to life and national security to combating gender-based violence and protecting children's rights. Notably, it highlights critical issues such as the right to privacy in the digital age, labour rights, human trafficking and the protection of civic spaces in Nigeria's evolving democratic landscape. The diverse perspectives offered by the contributors, including NHRC staff, civil society organizations and experts in their respective fields, enrich the analysis and provide a holistic picture of the human rights landscape in Nigeria.

The complaints presented in this report are deeply concerning, revealing persistent and, in some cases, escalating human rights violations across the country. It builds upon the NHRC's 2024 Human Rights Dashboard, which documents the scope and distribution of complaints received across the country. In 2024, the Dashboard Report highlighted alarming trends in mass killings, abductions, sexual and gender-based violence and violations of fundamental freedoms. These findings underscore the urgent need for concerted action by government, civil society and all stakeholders to address these challenges effectively.

This publication is intended to serve as a catalyst for change. It is a tool for policymakers, legislators, law enforcement agencies, civil society organizations, and indeed, every citizen, to understand the realities of human rights in Nigeria and to work collaboratively towards solutions. The recommendations contained herein serve as a roadmap for all stakeholders committed to strengthening Nigeria's human rights framework.

The NHRC remains steadfast in its commitment to promoting, protecting and enforcing human rights in Nigeria. We recognize that this is an ongoing journey, requiring sustained effort, collaboration and a collective determination to build a society where the rights and dignity of

every individual are respected and upheld. It is our hope that this publication will not only inform decision-making at all levels but also inspire collective action toward a more just, inclusive, and rights-conscious society.

Dr. Tony Ojukwu, OFR, SAN, FICMC
Executive Secretary/CEO
National Human Rights Commission, Nigeria.

ACKNOWLEDGEMENT

The Commission acknowledges and sincerely appreciates the contributions made by staffs to the successful completion of the 2024 State of Human Rights Situation Report in Nigeria. Special appreciation goes to the Executive Secretary National Human Rights Commission, Dr. Tony Ojukwu, OFR, SAN, FICMC; Special Assistant to the Executive Secretary and Head, Monitoring Department, Mr. Okay Benedict Agu; Deputy Director, Monitoring Department, Dr Kelechi Akubueze; Salome Loko; Mariam A. Kadiri; Damian Ugwu; Abiola Olowu; Doose Shiishi-Gyer; Winifred Atusue; Amaka Ifechi-Fred, Teresa Unuodion Odijie; Emmanuel; Naiyeju Bukunmi Ayo; Chioma Okoli; Ngozi Okorie, Hope Kpadoo; Pwadumdi John Oko; Fatima Agwai; Jenny Torhee; Jennifer Aga; Victor Nwoko; Amarachi Gabriel; Bem Kurugh and Danladi Yohanna.

Finally, we also acknowledge the contribution of the Nigerian Human Rights community for the continuous fight in ensuring the protection, promotion and enforcement of 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 in Nigeria are usually 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 x-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. These other rights popularly recognized as economic, social and cultural rights, although not covered under Chapter 4 of the constitution, are guaranteed by virtue of Nigeria being a signatory to various international and regional instruments, that offer human rights protection to everyone in Nigeria.

The 2024 edition of the State of Human Rights Report, 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 report 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 2024 Human Rights Assessment in Nigeria report is a compilation of the human rights situation in Nigeria in the year under review. This report presents broad coverage of issue-areas as they pertain to complaints and media monitoring generated from the Commission's Headquarters and State offices. The report seeks to highlight the gaps in the promotion, protection, enforcement and accountability for human rights in Nigeria. Further, it makes recommendations to address identified pattern or trend militating against the protection, promotion, enforcement and accountability for human rights in Nigeria.

The report is divided into Three Parts and Seventeen Chapters as follows:

PART 1: Civil and Political Rights

i. Protection of Right to life: The Role of Government and Society
ii. Balancing National Security and Personal Liberty: Problem and prospects
iii. Human Dignity and Socio-Economic Rights: Matters Arising
iv. The Protection of the Rights to Private and Family Life in the Digital Age
v. Right to Fair Hearing and Oversight Mechanism in Nigeria
vi. The Protection of the Right to Peaceful Assembly and Association in the Age of the Internet
vii. The Right to Acquire and Own Property: Impact on Vulnerable Groups
viii. Access to Justice and Human Rights Promotion and Protection: The Role of the Court
ix. Corruption and Human Rights: Implications for the society
x. Sexual and Gender-Based Violence: Implications for the Society
xi. Freedom of thought, conscience and Religion: Echoes Across Nigeria
xii. The Protection of the Right to Freedom of Expression and the Press in the Modern Era.

PART 2: Economic, Social and Cultural Rights

i. Human Rights and Business: The Role of Corporate Social Responsibility
ii. Rights of Persona with Disabilities: Law and Practice in Nigeria
iii. Labour Right in Nigeria: Challenges and Solutions

PART 3: OTHER THEMATIC AREAS

i. Human Trafficking in The Age of Globalization: The Nigerian Experience

Each chapter begins with an Introduction and followed by Conceptual Clarification of Terms, Legal Framework, Conclusion and Recommendations. Also, complaints received and investigated by the Commission as well as reports from the media on human rights violations are considered as it relates to each chapter.

It is pertinent to mention that the year under review raises issues that touch on violations of the rights of the child to development, protection and survival. Most complaints in this category reveal 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 child's education, nutrition, health and parental attention.

The report also highlights complaints relating to Sexual and Gender Based Violence (SGBV), Human Trafficking, Civil and Political Rights as well as Economic, Social and Cultural Rights.

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

X- Female Complainant

Y- Male Complainant

XY- Third Party Complainant

Chapter 1

RIGHT TO LIFE

By

Salome Loko*

Introduction

Right to life is one of the rights guaranteed under the Constitution of Nigeria; it is contained in Chapter Four (4) titled Fundamental Human Rights. These rights are described as fundamental because they do not only form the basic environment for self-development and actualization, but, collectively they guarantee the inherent dignity of a human being[1]. Although the importance of these rights cannot be over emphasized, the right to life is even more fundamental as it is the right on which other rights gain their validity, without the right to life all other rights are non-existent.

Right to life is considered one of the highest social values and without which all other freedoms and rights lose their significance. The European Convention of Human Rights places on member states both negative obligations not to take life and positive obligations to protect life[2] i.e, the states are required to take action generally to protect citizens against threats to their right to life. Nigeria has the responsibility to respect, protect and fulfil the right to life by ensuring that it takes positive steps in order to prevent loss of life, however, the constitutional text of the right to life has only so far emphasized "intentional loss of life" over the protection of life itself.[3]

The Nigerian Constitution guarantees the right to life for Nigerians and persons living in Nigeria,[4] it states specifically as follows:

---

* Chief Legal Officer, Civil & Political Rights Department, National Human Rights Commission, Abuja.

1 J O Ezeanokwasa, 'Securing the Right to Life Through Air Pollution Control in Nigeria' (2018) 2 African Journal of Constitutional and Administrative Law <https://journals.ezenwaohaetorc.org/index.php/AJCAL/article/view/777> accessed 13 May 2023.

2 M Bošković.and L Gál, 'The Right to Life-Prohibition of Death Penalty and Right to Life in Prison' (2021) 165.

3 A O Enabulele. 'The Right to Life or the Right to Compensation upon Death: Perspectives on an Inclusive Understanding of the Constitutional Right to Life in Nigeria' (2014) 3(1) Journal of Sustainable Development Law and Policy 99.

4 Section 33, Constitution of the Federal Republic of Nigeria (CFRN) (1999) (as amended).

‘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.’

Two important components can be extracted from this provision; firstly, “every person has a right to life” and the second “no one shall be deprived intentionally of his life”. These two components according to Enabulele[5] are exposed to various instances of actions that can fall properly within this section, if it is recognised that the two components can be conjunctively or disjunctively interpreted and applied. He further argues that when the section is read conjunctively, the second component has the capacity to overshadow the first element and lead to understanding the section to mean that the right to life is only violated when there has been an arbitrary deprivation of life[6]. Hence, the full realisation of the right to life and the available remedies outlined in the occasion of a violation only arises where there has been an incidence of an unlawful deprivation of life.

On the other hand, where it is realised that the first component “every person has a right to life” can stand on its own and can sustain a cause of action before the occurrence of death, it provides an inclusive interpretation and enables the section to protect life while also providing remedies for the arbitrary deprivation of life[7]. Essentially, the right to life appears to be of little value if this right and provision is activated only where there has been the deprivation of life. Therefore, for the full realisation of the provisions of Section 33 of the Constitution, the provision should be interpreted as placing both positive and negative obligations on the government, that is not only to refrain from taking life outside the circumstances provided and punishing its citizens who do same, but, the state should also act to protect against the loss of lives.
The right to life is the nucleus of all other rights. Consequently, right to life should be broadly interpreted to encompass all its components, some of which are contained in the non-justiciable provisions of the 1999 Constitution of the Federal Republic of Nigeria. This right would be meaningless if it is only relevant to a life that has been deprived. The right underscores not only the right not to be killed, but also, the right to be rescued from impending death; and imposes a positive duty on the government to provide safe and good infrastructure that guarantees a dignified life to persons within its jurisdiction.

The duty to protect life implies that States should take appropriate measures to address the general conditions in society that may

5 A O Enabulele. ‘The Right to Life or the Right to Compensation upon Death: Perspectives on an Inclusive Understanding of the Constitutional Right to Life in Nigeria’ (2014) 3(1) Journal of Sustainable Development Law and Policy 112.
6 ibid.
7 ibid.

eventually give rise to direct or indirect threats to life or prevent individuals from enjoying the right to life with dignity. Indeed, the duty imposed on the government to protect its citizens and persons within state jurisdictions in line with the social contract doctrine requires the government to explore all necessary measures, be it legislative, executive or judicial, to protect life.

In this connection, the progressive approach adopted in the case of *Gbemre v Shell Petroleum Development Company Nigeria Limited*[8] reflects an all-encompassing interpretation of the right to life.

In this case, an action was filed against continuous gas flaring, production and exploration activities in the Niger Delta affecting lives and livelihoods of persons and communities in the area. The Court held that, the constitutionally guaranteed right to life and dignity of the human person inevitably includes 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 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 form part of Nigerian law.

Other jurisdictions like India, Greece and Guatemala with similar constitutional frameworks like Nigeria have adopted an inclusive and encompassing approach to the interpretation and applicability of the right to life.

The Supreme Court of India held in the case of *Paschim Banag Khet Samity v. State of West Bengal*,[9] that the right to emergency medical care was enforceable as a right to life under Article 21 of the Constitution of India. The court reasoned that the right to emergency medical care formed a core component of the right to health which in turn was recognised as forming an integral part of the right to life.

In *Villagran-Morales v. Guatemala,*[10] the Inter-American Court of Human Rights, declared:

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8 *Gbemre v Shell Petroleum Development Company Nigeria Limited* [2005] AHRLR 151.

9 *Paschim Banag Khet Samity v State of West Bengal* [1986] 4 SCC 37.

10 *Villagran-Morales et al v. Guatemala* [1999] Inter-Am. Ct. H.R. (Ser. C) No. 63, 144 (Nov. 19, 1999). Applauding the approach of the Court, Steven R. Keener & Javier Vasquez, 'A Life Worth Living: Enforcement of the Right to Health Through the Right to Life in the Inter-American Court of Human Rights', (2008-2009) 40 Colum. Hum. Rts Rev, 595, 597, opined that "the court took the idea that the right to life must be a right to a dignified life and began to enforce many elements of the right to health, finding violations even when the victims did not die and requiring government provision of food, water, sanitation, medicine and adequate medical care".

The right to life is a fundamental human right, and the exercise of this right is essential for the exercise of all other human rights. If it is not respected, all rights lack meaning. In essence, the fundamental right to life includes not only the right of every human being not to be deprived of his life arbitrarily, but also the right that he will not be prevented from having access to the conditions that guarantee a dignified existence. States have the obligation to guarantee the creation of the conditions required in order that violations of this basic right do not occur.

In *Mohini Jain v State of Karnataka*[11], the court was asked to determine the constitutionality of a capitation fee imposed on those who wished to gain admission into a medical school. The fee had the effect of placing the school beyond the reach of the poor. The court relied on the right to life in article 21 of the Constitution of that country to declare the fee unconstitutional. The court used the opportunity to make a definite statement on some of the necessities that are implied in the right to life. It declared; 'we think that the right to life includes the right to live with human dignity and all that goes along with it, namely the bare necessaries of life such as adequate nutrition, clothing and shelter and facilities for reading, writing and expressing oneself'.

Accordingly, the right to life when expansively interpreted includes not only the right of every human being not to be deprived of his life arbitrarily, but also, the right that one will not be prevented from having access to the conditions that guarantee a dignified life. Nation states therefore have the obligation to guarantee the creation of the conditions required to ensure violations do not occur.

Conceptual Clarification of Terms

The Concept of Life

The dictionary defines life as a condition that separates plants and animals from inorganic matter, including functional activity, capacity of growth and continued growth preceding death[12]. Though life is commonly possessed by all living entities, it is a very complex value and to date no person has been able to successfully comprehend the intricacies of life.[13] For instance while religion affirms that life is of supernatural origins, early philosophical thoughts is that life came from inanimate matter by spontaneous generation[14]. We agree with Onuegbulam[15] who stated that life is life, there is no better language to describe the meaning of life other than the word itself, life determines

11 *Mohini Jain v State of Karnataka* [1992] AIR 185.

12 O E Dictionary, Concise Oxford English Dictionary (11th ed, 2002) 823.

13 C M Onuegbulam, 'Right to Life Under Legal and Jurisprudential Standards: Implications for Nigeria',(2015) 6 Nnamdi Azikiwe University Journal of International Law and Jurisprudence, 160.

14 ibid n3.

15 ibid.

our being and existence and distinguishes between the living and the dead.

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 themselves is undesirable, illegal and an attempt to do the same is punishable under the law of most societies.[16] 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.[17]

Right to Life

Right to life is the belief that a human being has the right to live and should not be killed by another entity; the right is a fundamental human right that means that nobody including the government can unjustifiably kill a person. The right to life is a first generational right, which means it falls within the category of rights that concern civil and political rights, which is a fall out of the English, American and French revolutions.[18]

The right of 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 by the right to life and any restriction to the right to thought and expression amounts to a limitation to the right to life. The same applies to other rights such as freedom of conscience and religion, freedom from discrimination etc.

Legal Framework

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

16 O O Oarhe and S Enabunene, 'Women Trafficking and Violations of Right to Life in Nigeria' Online Journal of Social Sciences, 64 < http://www.onlineresearchjournals.org/JSS > accessed 15 April 2024.

17 A Agarwal and ors, *Principles of Political Science*, (15th Edn, R. Chand and Co 1994) 17.

18 A Bülent, 'Rethinking "third generation" human rights' (2004) 1(1) Ankara Law Review, 121-155.

International Instruments

The Universal Declaration of Human Rights (UDHR)

The United Nations UDHR is singularly the most important reference point for discussions on human rights and dignity[19] and from which other related documents stem. It was proclaimed on 10th December 1948 for a common standard of achievement in the area of fundamental human rights for all 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'[20] i.e. the World War II (1939-1945).

International Covenant on Civil and Political Rights 1966 (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) of the International Covenant on Civil and Political Rights provides that '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".[21]

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 union.[22] It is the first regional mechanism that incorporates the different classes of human rights (Civil and Political

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19 M A Glendon, 'Knowing the Universal Declaration of Human Rights' (1998) Notre Dame L Rev 73, 1153 <https://heinonline.org/HOL/LandingPage?handle=hein.journals/tndl73&div=51&id=&page=> accessed 23 April 2022.

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

21 International Covenant on Civil and Political Rights (1966) 6(2).

22 E O Ekhator, 'The Impact Of The African Charter On Human And Peoples - Rights On Domestic Law: A Case Study Of Nigeria' (2015) Commonwealth Law Bulletin 4.

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 that human beings are inviolable and are entitled to respect of life and integrity of a person that may not be deprived arbitrarily.

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, the right to life is limited under the due process of the law.[23]

Domestic Instruments

The main law to be discussed in this regard is the Constitution of the Federal Republic of Nigeria (CFRN) 1999 (as amended). The 1999 Constitution, which is the *Grund norm*, 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. Unlike the African Charter, the Nigerian Constitution elaborately enumerates those circumstances where the right to life can be lawfully breached. Subsection (1) states that the right to life can be taken away in the execution of a sentence of a court for a criminal offence where the person has been found guilty[24]. Therefore, this right can only be deprived upon proof of capital offenses substantively and procedurally proved beyond a reasonable doubt under the relevant and applicable laws including the Evidence Act 2004[25].

These offenses include:

a. Murder provided for 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

23 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 <https://www.mcser.org/journal/index.php/mjss/article/view/5288/5105> accessed 13 May 2023.

24 ibid.

25 ibid.

c. Sabotage provided for in the Petroleum Production and Distribution (Anti-Sabotage) Act, 2004.

This point was emphasized in the case of Udosen v. The state (2007**)** where the court held that the "commission of a crime by a party must be proved beyond reasonable doubt"[26]
Subsections 2 (a)-(c) further enumerate other circumstances where this right can be lawfully breached 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 defendi ng 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 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. Law enforcement agents are also sanctioned to use lethal force 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. However, it would be extremely careless to assume that due to the exceptions to the right to life provided by the Constitution, law enforcement and security agencies have been granted powers to act without reasoning when it comes to using lethal force in the process of carrying out their duties.

It has been argued that for 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 reviewed[27]. 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, we believe the key and balancing factor is as provided in the test of reasonability. In Musa v State (1993) it was held that Section 33 of 1999 Constitution allowed for the use of such force as reasonably necessary in defence of a person

26 *Udosen v State* (2007) 146 LRCN, p. 771 at 775.
27 M A Ajomo 'Fundamental Human Rights under the Nigerian Constitution' (1992) in C Akpamgbo, *Perspectives on Human Rights* (2nd edn, Federal Ministry of Justice of Nigeria 1984) 123.

from unlawful violence and for the defence of property as far as the force used is reasonably necessary for that circumstance. [28]

Duty of State in the Protection of Human Rights

A fundamental issue with the traditional approach to the interpretation of the right to life in Nigeria is that it excludes components such as the right to a healthy environment, food, health, social security etc, which is part of the right to life. This restricts the enforcement of the right to life to only where death occurs, thus, according to Enebulele[29], 'confining the right to the realm of a broken promise, for which compensation is a just and adequate remedy only when the government directly authorised the death'.

In order to avoid this narrow view some courts have expanded their view of the right to life and although they did not exclude the negative connotation where a death has occurred, the courts have also leaned heavily on the positive components of the right by reading it together with the positive duties of the State[30]. Some of these components which the courts have in some cases interpreted and applied as responsibility on the state to protect a dignified life include right to healthcare, right to livelihood, right to education and right to healthy environment. The acts of the courts in those jurisdictions were to position the right to life within its rightful position i.e, a context where wasteful deaths are prevented and not only considered as a means of compensation after death has occurred.

When the right to life is viewed from this position, it imposes a positive duty on the government to maintain the society in a state that easily and actively acts to prevent deprivation of life. In Velasquez – Rodriguez V Honduras[31] the court affirmed that 'the right to life implies an obligation on the part of state parties to take reasonable steps to prevent situations which can result in the violation of the right to life'.

Further to the above, Enabulele[32] has stated that these parts of the right to life are not limited to those listed in this paper but the list is in the real sense of it, open ended. This is because a cause which ordinarily is not actionable can become actionable within the precinct of the right. He supported his argument with the case of Indigenous Community of *Yakye Axa v. Paraguay*[33], where it was deduced from the judgement of

28 *Musa v State* [1993] 2 NWLR 277, 553.

29 A O Enabulele, 'The right to life or the right to compensation upon death: Perspectives on an inclusive understanding of the constitutional right to life in Nigeria.' (2014) 3(1) Journal of Sustainable Development Law and Policy 99-117.

30 ibid.

31 [1993] 4 Law Reports of the Commonwealth, February 4, 1993

32 ibid n18.

33 Series C No. 125, [2005] ACHR 6.

the Inter-American Court of Human Rights, that its position is that the causes which are enforceable as part of the right to life are wider in the case of vulnerable persons and persons who are at higher risk.

Essentially, the importance of this approach in my opinion is in the use of this right to prevent wasteful deaths and this is by compelling the government to take proactive steps against these deaths from happening and not only from its commission but also its omission and errors. A direct application will therefore mean that where a person dies due to bad road or political bullying, the resultant deaths cannot be completely separated from the government's failure in its obligation to take positive steps to prevent the condition that caused the death (the bad road) hence, amounting to a violation of the right to life.

This position has been expanded further by the European Court of Human Right which opined that even after providing the adequate environment to prevent wasteful deaths; the government is yet under the duty to investigate the cause of death in every individual case[34]. This could be that this part has been included to ensure that the perpetrators, if any, do not prosper in their evildoing thereby protecting the right to life of potential victims.

Right to Life and Right to Healthcare

Putting to rest the need for the interpretation of the Right to Life to be broadened and establishing the positive duty of the government to protect its citizens right to life, this paper will focus on one of these components of the right to life, the right to healthcare. The right to health is an essential right without which other rights may be meaningless[35]. In a situation where a person is critically ill and does not have access to quick and adequate healthcare, he cannot exercise his other rights or even appreciate them, the person is not only unable to exercise those other rights but, is more susceptible to violation of some of his rights too, such as right to dignity of human person and right to personal liberty. Therefore, even though the right to health might not have attained the recognition availed the right to life, it is a major and important feature of international[36] and regional instruments[37]

It is necessary to state here that, the right to health has two parts; first as it relates to the availability of appropriate and timely healthcare while the second refers to the protection of public health through actions like the provision of portable water or health care related information or

34 ibid n18.
35 *Purohit & Another v The Gambia* [2003] AHRLR 96 (ACHPR 2003) para 80.
36 Arts 25(1) & 12 Universal Declaration and ICESCR respectively.
37 Art 16 African Charter.

education[38]. I dare say that both are equally important but, unfortunately not adequate in our country, however, this paper shall only be discussing the right to the latter and only with regard to the provisions of the International Convention on Economic, Social and Cultural Right (ICESCR), the African Charter and the Constitution of the Federal Republic of Nigeria, even though the right to health is also guaranteed under other international and regional human rights instruments that Nigeria is a party to especially with regard to thematic issues such as women, children or minority groups.

Article 12 of the ICESCR is considered the most comprehensive reference point when the right to health under international law is discussed[39]. Article 12 states that state parties to the Convention 'recognise the right of everyone to the enjoyment of the highest attainable standard of physical and mental health'. According to the Committee on Economic, Social and Cultural Rights Committee (ESCR) which is the quasi-judicial body responsible for the exposition and enforcement of ICESCR, the right to health is not a right to be healthy, but, rather is composed of certain freedoms and entitlements[40].Oduwale and Akinola[41] explained that these freedoms include the freedom to have dominion and charge over a person's health and body, as well as the freedom to be free from coerced medical experiment and treatment, undue intrusion, while entitlements include a system of health protection that guarantees same opportunities for every person to enjoy the highest standard of health and the 'highest attainable standard of health' according to the ESCR Committee is to be understood as the entitlement of a person to the enjoyment of requisite facilities, goods and services and conditions that make the realisation of the highest attainable standard of health possible[42].

Article 12 of the ICESCR gives 5 obligations to the State Parties namely; the general obligation of states, the specific obligation of states, the international obligation of states, the core obligation of states and the obligation of states to provide reparations and remedies for violations of the covenant[43]. In our discussion as regard public health, the core obligation of state is the most relevant according to the ESCR

38 A R Chapman, 'Core obligations related to the right to health and their relevance for South Africa' in D Brand & S Russell (eds) *Exploring the core content of socioeconomic rights: South African and international perspectives* (Protea Boekhuis 2002) 45.

39 Oduwole, Jumoke, and Akinola Akintayo. 'The rights to life, health and development: The Ebola virus and Nigeria' (2017) 17(1) African Human Rights Law Journal 194-218.

40 ESCR Committee General Comment 14 para 8.

41 ibid 28.

42 ESCR Committee General Comment 14 para 9.

43 ibid 28.

Committee[44]. This obligation mandates the state parties to ensure especially for vulnerable groups without discrimination access to health facility, goods and services, to ensure everyone's freedom from hunger by ensuring access to the minimum of essential nutritionally adequate supply of food, equitable distribution of health facilities, goods and services, ensure access to basic shelter, provision of adequate drugs, sanitation and adequate supply of portable water. Most importantly for the purposes of this paper, the obligation also includes the provision of immunisation against key infectious diseases, prevention, control and treatment of endemic diseases, supply of education about health problems in the community and methods of control and prevention as well as appropriate training for health personnel[45]. Finally, the obligation also provides that state parties are to provide repatriation and remedies to victims of violation of right to health which might be in the form of compensation, restitution or assurances of non-repetition as the case may be[46].

The position of the ESCR Committee on the right to health is also echoed by the African Commission in Article 16 of the African Charter[47]. Even though the African Commission did not define the right to health, it agrees that the right to health is not the right to be healthy[48], additionally, the African Commission set out parts of the right to health as an inclusive right which makes up both healthcare and underlying preconditions of health like the ESCR Committee[49]. Article 16 of the African Charter also provides for the obligations of state parties and their minimum core obligations in terms similar to that of the ESCR Committee, including the formulation of national plans, policies and systems, cross cutting obligations for the respect and protection of health and obligations specific to diseases in relation to epidemic and endemic diseases; including the obligation of the state to establish a mechanism for their

44 General Comment 14 paras 43-45.

45 General Comment 14 para 44.

46 General Comment 14 para 59.

47 Art 16 of the African Charter provides: '(1) Every individual shall have the right to enjoy the best attainable state of physical and mental health. (2) States Parties to the present Charter shall take the necessary measures to protect the health of their people.

48 African Commission on Human and Peoples' Rights *Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights* (African Commission Principles and Guidelines) para 61
< http://www.achpr.org/files/instruments/economic-socialcultural/achpr_instr_guide_draft_esc_ rights_eng.pdf > accessed 30 December 2015.

49 ibid 28.

prevention and treatment as well as provision of domestic but, effective remedies for victims of such violations[50].

The Constitution of Nigeria makes provision for the right to health in section 17(3)(d). It provides that 'the state shall direct its policy towards ensuring that ... there are adequate medical and health facilities for all persons' and this right just like the other socio economic rights contained in the Fundamental Objectives and Directive Principles of State Policy Chapter (Chapter II) of the CFRN, on its own cannot be enforced before any court of law in Nigeria. However, just like under other jurisdictions of the world, the Nigerian legal system is becoming more creative in its approach to socio-economic rights especially with regard to its application within the realm of the right to life.

I will however like to stress at this point that notwithstanding the above, I am on all fours with the argument of Oduwole and Akintayo that the issue of the non- justiciability of socio-economic rights, especially the right to health on its own is not proper. Based on the following. Firstly, the rule of international law that a state cannot rest on the provisions of its domestic law to violate its international obligation[51]. Also as stated in the case of Economic Community of West African States (ECOWAS) Court of Justice in Registered Trustees of the Socio-Economic Rights and Accountability Project (SERAP) v. Nigeria[52], where the court held that Nigeria cannot rely on the provisions of the Constitution to violate its obligations under an international treaty (the African Charter). Secondly, Nigeria has a separate obligation under international law to take legislative measure and other measures to change socio-economic rights into subjective rights in Chapter II, which Nigeria seems to have done by the domestication of the African Charter and the enactment of other socio-economic rights related legislations in Nigeria[53]. Thirdly, there is also a separate obligation on the Nigerian judiciary to interpret as far as possible, domestic laws to conform with the States obligations under international law[54]. Like in Odafe v Attorney-General of the Federation[55] where the court read the torture and non-discrimination provisions of the CFRN and the African Charter together to find a violation of the right to health of HIV-positive inmates who were denied the requisite medical treatment.

The above, however proposes that, notwithstanding the claim that socio-economic rights are non-justiciable under the Constitution of the Federal Republic of Nigeria, Nigeria is under the duty and has a number

50 ibid 28.
51 ibid 28.
52 ibid n37.
53 ibid 28.
54 Ibid 28.
55 (2004) AHRLR 205 (NgHC 2004).

of obligations as stated above as it relates to the right to life in Nigeria. Just as stated by Uchegbu,[56] in modern times, the right to life must be related to the quality of life and it is useless for the law to guarantee merely the right to exist without also guaranteeing the availability of basic life facilities like health, education, food and shelter which makes life worth living.

The right to life is a fundamental right as every other right depends on being alive. Traditional societies have for the longest time had their laws that respected and protected each other's right according to their understanding and the legal protection of fundamental rights has been a unifying ideal that brings people of different nationalities together. However, one factor unifying the laws of the society is the consensus that it is paramount to safeguard the right to life as a crucial first step in protecting every other right of a human person.

Chapter II of the Constitution of Federal Republic of Nigeria 1999 contains what are captioned the "Fundamental Objectives and Directive Principles of State Policy", which, prima facie, are guidelines to the government of Nigeria to promote democracy, social justice and order. They are also referred to as economic, social, and cultural benefits/rights are found in Chapter II of the Constitution. These provisions appear unfortunately to be unenforceable by the Courts in Nigeria in the light of the ouster clause in Section 6 (6) (c) of the Constitution of Federal Republic of Nigeria 1999.

However, it is found by the researcher that despite the "Fundamental Objectives and Directive Principles of State Policy" which ought to induce a legal duty from the State to provide economic, social, and social benefits/rights, these provisions appear unfortunately to be unenforceable by the Courts in Nigeria in the light of the ouster clause in Section 6 (6) (c) of the Constitution of Federal Republic of Nigeria 1999, which are not justiciable. In so doing it is our view that these provisions can find a place in the sphere of justiciability without affecting their non-justiciable status, since according to Enabulele[57] they are only being enforced under the justiciable status of the right to life and not on their own.

Further to the above, we support the notion that section 33 places a positive duty on government to provide good and safe infrastructure that guarantees a dignified life to Nigerian citizens.[58] Unfortunately, the judicial interpretation of this section has mainly emphasized the intentional deprivation of life over the protection of it. Hence, this paper

56 A Uchegbu, 'The concept of "right to life" under the Nigerian Constitution' in JA Omotola (ed) *Essays in honour of Judge TO Elias* (Faculty of Law, University of Lagos 1987) 136.

57 ibid.

58 ibid.

seeks to urge the courts to adopt a broader interpretation and application of this right which can cause the implementation of all the elements contained in chapter II, just like courts in other jurisdictions that have similar separation of justiciable and non-justiciable rights.

It further argues that the right to life in Nigeria should not be viewed only in relation to deprivation of life but, also, in the light of sustenance of life. In particular, therefore, the right to life should be broadly interpreted to include all its components, some of which are contained in Chapter II of the Nigerian Constitution.

Conclusion/Recommendation

The traditional approach to interpretation of the right to life views the right in a restrictive manner. Human rights practitioners, courts and policy makers are therefore urged to move away from this traditional approach and adopt a broader understanding of the right to life that affords an implementation of all components of the right to life which are so far embodied in the non-justiciable provisions of the Constitution[59].

Socio-economic rights do not only ensure the attainment of an adequate standard of living for the people, they also help to guarantee certain conditions that are fundamental to human existence, without which human rights will have no meaning. A more liberal and expansive approach that considers the breach of the right in terms of threat to life and the occurrence of death is desirable.

Human rights will not be fully realized unless the right to life is respected and protected.

Some of the Complaints Received by the Commission under Right to Life are as follows:

C/2024/ESCR/289/ENUGU

The Commission received a complaint dated 3rd October, 2024 from Y who resides at Amukabi, Nomeh, Nkanu East LGA, Enugu State. He alleged that his kinsmen conspired to seize his inheritance while the chairman of his family is threatening his life. He pleads for the Commission intervention. An interview was conducted and a letter of invitation was sent to the Respondent. Mediation and investigation was carried out in the village. The issues raised were all resolved. The matter was recommended for closure.

C/2024/CPR/282/ENUGU

The Commission received a complaint dated 10th October, 2024 from X regarding threats to her life and actions by her co-tenant that could

59 ibid n6.

disturb the peace. Following the receipt of the complaint, X was called in for an interview. During this meeting, she was unable to provide concrete evidence of the threats to her life or specific instances of peace being disrupted. Her claims were primarily based on assumptions and alleged use of black magic. The events in question took place in Achara Layout, Enugu South Local Government Area, Enugu State.

C/2024/CPR/288/ENUGU
The Commission received a complaint dated 2nd October 2024 from X of 20 Hill View Street, Independence Layout, Enugu alleging that her daughter-in-law and her first son posed a nuisance and threat to her life, Y who she has been married to subjects her to domestic violence, X therefore sought the intervention of the Commission.

C/2024/CPR/127/AKR
The Commission received a complaint dated 28th September, 2024, from Y, a resident of Oba-Ile, Akure, Ondo State, alleging threats to his life.
The complainant, a pastor, explained that one of his church members had sought his assistance regarding an unpaid debt of N103,000 owed to Mr. Y for furniture work. The church member disclosed that he had been arrested by the police and the NSCDC in efforts to recover the debt.

As a gesture of support, the pastor intervened, pleading with Mr. Y on the debtor's behalf for additional time to repay the amount. Mr. Y agreed to a one-month extension, during which the debtor managed to pay N30,000. However, the pastor alleged that Mr. Y became dissatisfied with the partial payment and began threatening and harassing him instead.

The situation escalated when the pastor was summoned to the palace of the Oloba and compelled to swear an oath affirming that he would not harm the creditor. Despite this, Mr. Y allegedly continued issuing threats, including claims that he would involve military personnel to ensure full recovery of the money.

The Complainant is seeking the Commission's intervention to restore his peace, emphasizing that his involvement was solely as a mediator. He insists that Mr. Y should direct all recovery efforts toward the debtor rather than himself.

C/2024/WC/094/KD
The Commission received a complaint dated 19th March 2024 from X against Y on alleged threat to life, inhuman and degrading treatment. The matter was admitted for investigation and intervention.

C/2024/CPR/034/JG
The Commission received a complaint dated 4th March 2024 from Y of Garki Local Government, Jigawa State alleging that his two (2) sons were killed on 27th of February 2024 at the same address. The suspects were arrested by the police and transferred to CID Dutse, for further investigations.

C/2024/CPR/9941/PL
The Commission received a complaint dated 16th January 2024 from Y, of, Jos-North, Plateau State, against Y, his father, of the same address. Y alleged that Y does not like him and is threatening to kill him. The matter was admitted for investigation and intervention.

C/2024/CPR/065/KD
The Commission received a complaint dated 14th February 2024 from XY alleging that gunmen (Y) shot his elder sister to death on 10th August 2024 at Unguwan Rana Gonah Isah. Y alleged that the cell phone of one of the gunmen fell down in the residence of the deceased when they were struggling to forcefully pick her to the bush. Y alleged that they reported the matter to the Military Personnel, Security Outpost Unit 312 Station at Unguwan Kaje Maraban Rido and handed over the phone to the Soldier but nothing was heard from the Military. The matter was admitted for investigation and intervention.

C/2024/CPR/168/KD
The Commission received a complaint dated 29th May, 2024 from XY alleging that XY JTF officers, Maraban Jos, Kaduna office brutally beat his son Y on Thursday, 23rd May, 2024 who later died in the hospital on Sunday, 26th May, 2024 due to injuries inflicted on him. The matter was admitted for investigation and intervention.

C/24/CPR/329/LAG
The commission received a complaint dated 21st May 2024, from Y, alleging that his right to presumption of innocence as well as his right to life has been constantly threatened by the Nigerian Police Force of Idimu Police Station. The matter was admitted for investigation and intervention.

CPR/24/336-338
The Commission received a complaint on 22nd May 2024 from X, alleging the murder of the victim and the threat to her own life by Y. The crime was reported to the police and was investigated.

C/2024/WC/147/KD
The Commission received a complaint 15th May, 2024 from XY on behalf of their mother X alleging threat to life against her by Y their younger brother. The complainant wants the Commission to intervene. The matter was admitted for investigation and intervention.

C/2024/468/IMS
The Commission received a complaint from X dated 15th October, 2024 alleging that XY, a patient at the hospital she worked at, threatened her after she gave her money for her school fees and accommodation. The matter was admitted for investigation and intervention

C/2024/578-579/IMS
The Commission received a complaint from X dated 4th December, 2024 alleging that Y his brother was physically attacked by Y his step brother and their children on 13th October, 2024 leaving him with severe injuries, following the Commission's intervention. The matter was admitted for investigation and intervention.

C/2024/533-534/IMS
The Commission received a complaint from X dated 11th November, 2024 against Y her ex-husband who is denying her access to their 6 years old son since their separation/dissolution of their marriage. This incident happened at, Umuala Orlu, Imo State. The matter was admitted for intervention and investigation.

C/2024/559-562/IMS
The Commission received a complaint from Y dated 21st November, 2024 against X his wife alleging denial of access to their children by his wife and XY her parents. He further alleged that he has been leaving up to his responsibilities towards their children. The matter was admitted for intervention and investigation.

C/2024/537-577/IMS
The Commission received a complaint from X dated 27th November, 2024 alleging that Y her husband failed to provide food and shelter for her and their children and threatened to kill her. She also alleged that he forcefully took over custody of their three children and has denied her access to them. All attempts to recover custody have proved abortive. The matter was admitted for investigation and intervention.

C/2024/CPR/124/CRS
The Commission received a complaint dated 20th November, 2024 from Y of Akamkpa LGA, Cross River State alleging that X his wife is having

an extramarital affair with Y his friend. He further alleged that the driver and his wife threatened to kill him and also burn down his Cocoa Farm. The matter was admitted for investigation and intervention.

C/2024/CPR/234/EDO
The Commission received a complaint dated 30th September 2024 from X against XX. X alleged that she had been subjected to harassment and threats of violence, including threats of being killed by hired assassins. The matter was admitted for investigation and intervention.

C/2024/CPR/282/EDO
The Commission received a complaint dated 8th November 2024 from Y against YY. Y alleges that YY unlawfully encroached upon his land, destroyed his crops, and issued threats against his life. The matter was admitted for investigation and intervention.

Chapter 2

HUMAN DIGNITY AND SOCIO-ECONOMIC RIGHTS: MATTERS ARISING

By

A. A. Olowu*

Introduction

Human dignity and socio-economic rights are foundational principles enshrined in numerous international treaties and national constitutions, being central themes in the discourse on human rights globally. Human dignity is an inherent and inviolable right, forming part of the bedrock of any just and equitable society. It emphasises the inherent value and worth of every individual, regardless of their social, economic, or political standing[1]. In Nigeria, the concept of human dignity is enshrined in the 1999 Constitution[2] as amended, and it also recognizes socio-economic rights -which encompass essential rights like the right to work, education, healthcare, adequate housing, food, and social security- as fundamental to human existence.

The nexus between human dignity and socio-economic rights is a complex one, especially in developing countries like Nigeria. Despite the fact that it has been established that these rights are crucial for leading a life of dignity and fulfilling human potential and the legal frameworks on ground, the actualization of human dignity and socio-economic rights in Nigeria faces significant challenges. This chapter delves into the intricate relationship between human dignity and socio-economic rights in the Nigerian context, and identifies the challenges hindering their realization by examining relevant legal frameworks, cases, and scholarly opinions.

Conceptual Clarification of Terms

Human Dignity

Human dignity refers to rights protected under Section 34 of the 1999 Constitution and other international instruments. Human dignity is an inherent and inviolable attribute of every individual and as a broad

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1 Human Rights: A Fundamental Pillar of a Just Society (15 August 2023) IPPDR <https://ippdr.org/human-rights-a-fundamental-pillar-of-a-just-society> accessed 25 July 2024.

2 Constitution of the Federal Republic of Nigeria 1999 (as amended).

concept, encompasses the right to life, liberty, security of person, freedom from torture, and other cruel, inhuman or degrading treatment or punishment. It also includes the right to equality, non-discrimination, and freedom of expression. Human dignity in a nutshell is the recognition of the intrinsic worth of all individuals, irrespective of their status or circumstances and is a foundational principle in human rights discourse, underpinning the notion that every person deserves respect and equal treatment.

Socio-Economic Rights

Socio-economic rights include access to basic needs such as health, education, work, an adequate standard of living and social security as recognized in Chapter II of the Constitution of Nigeria but are non-justiciable, meaning they cannot be directly enforced in court. These rights, encompasses access to essential resources and services that ensure a decent standard of living[3] and are essential for individuals to live with dignity and fully participate in society.

The relationship between human dignity and socio-economic rights is interdependent, as the realization of human dignity depends on the enjoyment of socio-economic rights, while the respect for human dignity is a prerequisite for the effective exercise of socio-economic rights. For example, the right to health encompasses not just the right to medical care but also the right to reside in environments that are conducive to good health, including access to clean water and suitable housing. In other words, the deprivation of socio-economic rights often undermines human dignity, creating a vicious cycle of marginalization and poverty. Conversely, the respect and protection of human dignity are essential for the full realization of socio-economic rights. This symbiotic relationship between human dignity and socio-economic rights is seen in the provisions of the Constitution as one of the social objectives covered by the socio-economic rights is to protect human dignity, which is clearly stated under Section 17(2)(b) of the Constitution:

> *"the sanctity of the human person shall be recognized and human dignity shall be maintained and enhanced".*

Legal Framework

The Nigerian legal framework for safeguarding human dignity and socioeconomic rights includes the Constitution, the implementation of national laws, international treaties and case laws. Notwithstanding the non-justiciability of socio-economic rights in Chapter II of the Constitution, courts have occasionally interpreted other constitutional

3 P Ditto, 'An Examination of Chapter 2 of the CFRN 1999' (23 July 2024) Omaplex <https://omaplex.com.ng/an-examination-of-chapter-2-of-the-cfrn-1999/> accessed 25 July 2024.

provisions and international obligations to take socioeconomic considerations into account.

The Nigerian Constitution

The 1999 Constitution of the Federal Republic of Nigeria (as amended) is the supreme law of the land and provides a comprehensive framework for the protection of human rights, including human dignity and socio-economic rights.

Chapter II: Fundamental Objectives and Directive Principles of State policy

The 1999 Constitution of Nigeria, in Chapter II, outlines fundamental objectives and directive principles of state policy, including provisions on socio-economic rights. These provisions, while not directly enforceable, serve as guiding principles for the government.[4] It outlines various socio-economic rights, including the right to education covered by Section 18, right to healthcare under Section 16, right to decent living conditions also under Section 16, and right to employment.

Section 17(2)(d) emphasizes that:

> "in furtherance of the social order, the state shall direct its policy towards ensuring 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."

Chapter IV: Fundamental Rights

Chapter IV of the Constitution guarantees fundamental human rights. It lists the enforceable fundamental human rights, including the right to dignity of the human person covered under Section 34:

"(1) Every individual is entitled to respect for the dignity of his person, and accordingly

(a) no person shall be subject to torture or to inhuman or degrading treatment;

(b) no person shall he held in slavery or servitude; and

(c) no person shall be required to perform forced of compulsory labour."

and the right to freedom from discrimination under Section 42 of the Constitution.

4 O O Patrick, 'Fundamental Objective and Directives Principles of State Policy: An Appraisal' (2019) 5(2) Melting Pot <https://journals.aphriapub.com/index.php/TMP/article/view/1043/1008> accessed 25 July 2024.

Statutes and Acts
Several statutes and acts reinforce the socio-economic rights and human dignity provisions of the Constitution by addressing specific socio-economic rights. Key among these are:

The National Health Act
This act establishes the framework for healthcare provision in Nigeria, i.e., the regulation, development, and management of a national health system and sets standards for rendering healthcare services in Nigeria. It ensures that everyone has access to fundamental and conventional medical care.[5]

The Labour Act
This act governs employment relations in Nigeria and protects the rights of workers, including wages, working conditions, employment contracts, and protection against exploitation and discrimination, thereby upholding the dignity of workers.[6]

The Child Rights Act
The Child Rights Act provides for the rights and welfare of children and included in this are the right to survival and development, protection from harmful practices, and access to education and healthcare. [7]

Universal Basic Education Act
The Universal Basic Education Act provides for free and compulsory primary education and 3 years of compulsory Junior Secondary School education.[8]

International Statutes and Treaties
Nigeria has ratified a number of international laws and treaties that have an impact on her legal framework on human dignity and socio-economic rights. Being a party to these treaties, Nigeria is imposed with the obligation to respect, protect, and fulfil the rights enshrined therein. These include;

The Universal Declaration of Human Rights (UDHR), 1948
The UDHR sets out fundamental human rights to be universally protected, including the right to human dignity and socio-economic rights

5 National Health Act, 2014.
6 Labour Act, 2004 Cap. L1, Laws of the Federation of Nigeria, 2004.
7 Child Rights Act, 2003.
8 Compulsory, Free Universal Basic Education Act, 2004; 'FAQs' (Universal Basic Education Commission) <https://ubec.gov.ng/faqs/> accessed 25 July 2024.

such as the right to employment, education, and an adequate standard of living.[9]

The International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966

Nigeria ratified the ICESCR, committing to uphold socio-economic rights such as the right to health, education, equal right to employment opportunity and an adequate standard of living. States that are parties are required by the Covenant to utilize all of their resources in order to fully realize these rights.

The African Charter on Human and Peoples' Rights (ACHPR), 1981

The African Charter, ratified by Nigeria, reinforces the protection of human rights, including the right to the dignity of human person and socio-economic rights.[10] It emphasizes the right to development, health, and education, and is part of Nigeria's domestic law under the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, Cap A9, Laws of the Federation of Nigeria 2004.

The Convention on the Rights of the Child (CRC), 1989

Nigeria has ratified the CRC on March 21, 1991 and it mandates the protection of children's rights, including the right to education, healthcare, and protection from economic exploitation.[11]

Case Law

Nigerian courts have played a crucial role in the interpretation and application of human rights provisions, including the right to the dignity of human person. Despite the majority of cases focusing on civil and political rights, there is a growing body of case law on socio-economic rights too. Judicial interpretation and enforcement of these rights have been pivotal in the realization of socio-economic rights and human dignity in Nigeria and several landmark cases highlight the interplay between human dignity and socioeconomic rights.

In SERAP v. Federal Republic of Nigeria, the Economic Community of West African States (ECOWAS) Court of Justice held that the Nigerian government violated the right to education by failing to provide adequate education, which is integral to human dignity and was in violation of the

9 Universal Declaration of Human Rights, 1948, Article 1 and 25.

10 African Charter on Human and Peoples' Rights 1981, art 5, 17, 22 and 24.

11 UNICEF, 'Reports on Child Poverty in Nigeria: Situation of Children in Nigeria, Monetary Child Poverty for Nigeria and Multidimensional Child Poverty in Nigeria' (UNICEF Nigeria, 2023) <https://www.unicef.org/nigeria/reports/reports-child-poverty-nigeria> accessed 25 July 2024.

government's obligations under international law, reinforcing the justiciability of socio-economic rights.[12]

In *Gani Fawehinmi v. General Sani Abacha,* the Supreme Court of Nigeria emphasized the importance of international treaties, such as the African Charter on Human and Peoples' Rights, in the domestic context and also affirmed that the Fundamental Rights provisions of the Constitution are enforceable and justiciable, reinforcing the significance of human dignity, socioeconomic rights and the rule of law.[13]

The Supreme Court in Attorney General of Ondo State v. Attorney General of the Federation held that, in order to indirectly support socio-economic rights, the federal government has the duty to ensure that state policies are in line with the Fundamental Objectives and Directive Principles of State Policy.[14]

Matters Arising:

Despite the comprehensive legal framework, several challenges hinder the realization of human dignity and socio-economic rights in Nigeria. Notwithstanding the challenges though, there is hope for progress in realizing human dignity and socioeconomic rights in Nigeria if a comprehensive and multi-sectoral approach is used to address the multifaceted challenges. These challenges and the prospects for realizing human dignity and socio-economic rights in Nigeria will be explored below

Challenges to realizing Human Dignity and Socio-Economic Rights in Nigeria

Justiciability and Enforcement

The non-justiciability of socio-economic rights in the Nigerian Constitution poses a significant challenge. It limits the ability of individuals to seek redress in court for violations of these rights, thus weakening their protection and enforcement.[15] Chapter II of the Constitution is non-justiciable, which limits the legal recourse for violations. Although courts have occasionally used creative interpretations to address these rights, the impact of these interpretations is limited by the lack of direct enforcement mechanisms.

12 *SERAP v. Federal Republic of Nigeria* ECW/CCJ/APP/08/09.

13 *Gani Fawehinmi v. Abacha* [2000] 6 NWLR (Pt. 660) 228.

14 Attorney General of Ondo State v. Attorney General of the Federation (2002) 9 NWLR (Pt. 772) 222.

15 F A Obi, 'Enforcement of Economic, Social and Cultural Rights in Nigeria' (2023) 1(1) African Journal of Social and International Affairs <https://www.ajol.info/index.php/ajosi/article/view/244748> accessed 25 July 2024.

While some socio-economic rights are implied in Chapter IV of the Constitution, Chapter II is still a significant barrier.[16]

Economic Constraints

Economic challenges, including poverty and unemployment, makes it harder to achieve socio-economic rights. The government's capacity to deliver essential services is impacted by budgetary constraints and scarce resources despite Nigeria's wealth in natural resources. Nigeria is one of the biggest economies in Africa, yet the country still has a high rate of poverty and income inequality. More than 40% of people are impoverished, which makes it difficult for them to get access to basic needs like food, shelter, and medical care. The benefits of economic growth have not been equitably distributed, leaving many Nigerians without access to basic services and necessities. Economic inequality in Nigeria exacerbates the difficulty of realizing socioeconomic rights for all citizens and efforts to guarantee everyone has access to healthcare, education, and a sufficient standard of living are hampered by the disparity between the wealthy and the poor.

Corruption and Governance

The achievement of socio-economic rights is further hampered by corruption and bad governance, since government initiatives often fail to translate into tangible improvements or benefits in the lives of the populace. The amount of money available for infrastructure development and social services is decreased by poor resource management and a lack of accountability in government expenditure.[17] Corruption makes poverty and inequality worse by diverting funds from the government that should be used for social development. Resources that could be used to improve public services and infrastructure are often siphoned off through corrupt practices, undermining efforts to enhance the socio-economic well-being of the populace.[18] The efficient provision of public services is

16 U Chioma, 'Justiciability Of Chapter Two Of The 1999 Constitution (As Amended): The Need For The Nigerian Judicial System To Be More Proactive' (The Nigeria Lawyer, 1 March 2022) <https://thenigerialawyer.com/justiciability-of-chapter-two-of-the-1999-constitution-as-amended-the-need-for-the-nigerian-judicial-system-to-be-more-proactive/> accessed 25 July 2024.

17 T Kasali, 'Bad governance and political selection in Nigeria has a human cost' (Africa at LSE, 5 July 2021) <https://blogs.lse.ac.uk/africaatlse/2020/12/18/bad-good-governance-political-selection-in-nigeria-elections-human-cost/> accessed 26 July 2024

18 I Johnson and J O Salau, 'Human Rights and Governance in Nigeria, 2011-2015' (2019) 13(2) African Research Review <https://www.ajol.info/index.php/afrrev/article/view/183978> accessed 25 July 2024.

thus further hampered by misgovernance, which affects the enjoyment of socioeconomic rights.

Insecurity
The achievement of socioeconomic rights is significantly impacted by insecurity, especially when it stems from insurgencies and conflicts. Due to the prevalence of conflicts, particularly in the northeast and other regions, millions have been displaced and their access to healthcare, education, and other necessities has been hampered. The Boko Haram insurgency, for instance, has displaced a lot of people, leading to loss of livelihoods, destruction of infrastructure, and erosion of human dignity.[19]

Inequality
Socio-economic disparities between different regions and social groups contribute to the marginalization of vulnerable populations with women and girls facing multiple forms of discrimination, limiting their access to education, healthcare, and economic opportunities. This perpetuates gender-based inequalities and undermines their human dignity.

Proposed Strategies for Enhancing Human Dignity and Socio-Economic Rights

Strengthening the Legal Framework
There is a need for the Constitution to be amended, to make socio-economic rights justiciable and enact specific legislation to protect and promote these rights.

Strengthening Governance and Accountability
Ensuring accountability and transparency in governance is crucial for protecting human rights. Corruption must be eradicated, transparency must be increased, and better governance is necessary for efficient resource distribution and service provision. It is important to implement efficient policies to combat corruption and reduce income inequality.

Investing in Social Development
Prioritizing public spending on education, healthcare, housing and social protection programs is crucial for reducing poverty, improving the living conditions of Nigerians and inequality and realising socio-economic rights which will ensure that the dignity of the citizens as a person will always be protected.

19 S Abila and A Amuda-Kannike, 'Insecurity and Conflicts: The Place of Human Rights under the Nigerian Law' (2018) 9(2) Nigerian Journal of Public Law <https://www.ajol.info/index.php/naujilj/article/view/183689> accessed 25 July 2024.

Empowering Marginalized Groups
Women and girls are more vulnerable to violation against human rights and empowering women, youth, and other vulnerable groups through education, skills training, and access to finance can contribute to their economic empowerment and human dignity.

Promoting Human Rights Education
Raising awareness about human rights, including right to the dignity of human person and socio-economic rights, is essential for empowering individuals to claim their entitlements and hold duty-bearers accountable.
By addressing these challenges and implementing the proposed recommendations, Nigeria can get closer to reaching its full potential as a nation where everyone has access to socioeconomic rights and human dignity.

Conclusion
Human dignity and socio-economic rights are interconnected and fundamental for the holistic development of individuals and society, and the legal framework in Nigeria provides a robust foundation for the protection and promotion of these rights. While Nigeria's legal framework provides a foundation for their protection, challenges such as non-justiciability, economic inequality, and corruption impede the full realization of these rights. To advance human dignity and socio-economic rights in Nigeria, there is a need for comprehensive legal and policy reforms that includes ensuring the justiciability of socio-economic rights, implementation, judicial interpretation and addressing economic disparities. There is also a need to increase public awareness, and promote equitable resource allocation through the concerted efforts from the government, judiciary, and civil society to create an environment where human dignity and socio-economic rights are fully protected and promoted.

This continued advocacy, judicial activism, and policy reforms will be essential in overcoming these obstacles and protect the socioeconomic rights and dignity of every Nigerian. Nigeria's adherence to fundamental rights will further be reinforced by the impact of international statutes and treaties, if implementation is taken seriously as these treaties offer more channels for advocacy and legal recourse.

Some of the Complaints Received by the Commission on the Rights to Dignity of Human Person are as follows:

C/2024/WC/045-047
The Osun State of the Commission received a Complaint dated 15th January, 2024 from X, who resides in Osogbo, Osun State, alleging her late husband's family of inhuman and degrading treatment.

C/2024/CPR/9999/PL
The Commission received a complaint dated 29th January, 2024 from XY, 30 years, of Takok, Barkin Ladi LGA, Plateau State against Y, personnel of the Nigerian Army attached to Operation Safe Haven in Plateau State. XY alleged cruel, inhuman and degrading treatment meted to his brother by Y. XY alleged that Y accosted his younger brother and attacked him inflicting grievous bodily harm on his brother, who has been hospitalized since November 2023. The matter was admitted for investigation and intervention.

C/2024/CPR/9879/PSO
The Commission received a complaint dated 3rd January, 2024 from Y of Angwan Rukubu, Jos, Plateau State. Y alleged that YY, of Angwan Rukuba, Jos, Plateau State boarded his tricycle and asked him to pick up some people and take them to a hospital. Y alleged that YY refused to pay him for his services after that. Y further alleged that when he demanded his payment, YY beat him up, injured him on his head and threatened to kill him. The matter was admitted for investigation and intervention.

C/2024/CPR/9926/PSO
The Commission received a complaint dated 15th January 2024 from Y and his friend from Rikkos, Jos North, Plateau State. They claimed that when they went to work at Skyrun, Opposite Rikkos TT&T Junction, Jos Plateau State, they were asked to leave because dynamite was planted and would explode. While leaving, they followed some rocky areas which happened to be owned by a family residing there. The members of the family asked them to leave and this resulted in some altercation where the police and members of Civilian Joint Task Force of Rikkos Junction, Jos North were called upon. When they arrived the Complainants alleged that the task force personnel beat them and treated them inhumanely without listening to them. The matter was admitted for investigation and intervention.

C/2024/CPR/10072/PSO
The Commission received a complaint dated 16th February 2024 from X, 32 years old, of Rukuba Road, Jos, Plateau State. X alleged that the Respondent threatened his life by beating him always and also subjected him to insult. The matter was admitted for investigation and intervention.

C/2024/CPR/10093/PL
The commission received a complaint dated 23rd February 2024 from X of Rantya, Jos South LGA Plateau State against XX, her stepmother, of the same address. X alleged that XX had been hostile towards her, and eventually drove her out of her father's house to the village in UmuahiaAbia state. X later came back to Jos to spend some time with her father but on arrival, XX treated X harshly and always called her a prostitute. The complaint was admitted for investigation and intervention.

C/2024/WC/164/KD
The Commission received a complaint dated 28th May, 2024 from X alleging that Y a medical doctor gave her a HIV false result which contradicted her actual status. She alleged that the HIV test was meant to satisfy her status for the wedding preparation to be conducted on 24th May, 2024. She further alleged that the false result coursed Y her proposed husband to cancel the intention. And later Y the doctor admitted that it was a mistake. The matter was admitted for investigation and intervention.

C/2024/CPR/10164/PL
The Commission received a complaint dated 13th March 2024 from XY of Rayfield on behalf of Y, her son. She alleged that her son was subjected to inhuman and degrading treatment by Y, a former vigilante leader. She claimed that Y dragged her son to the ground and tore his shirt. The matter was admitted for investigation and intervention.

C/2024/CPR/134/KB
The Commission received a complaint dated 13th December 2024, from Y alleging that XY police arrested him without claimants present in a cattle theft case, leading to fines and loss of property. The matter was admitted for investigation and intervention.

C/2024/CPR/136/KB
The Commission received a complaint from Y dated 17th December 2024, alleged that Civil Defense officers detained his brother for alleged homosexuality without trial. The matter was admitted for investigation and intervention.

C/2024/CPR/10212/PL
The Commission received a complaint dated 15th February 2024 from Y a 60 years old, on assault and inhumane treatment against men of the Federal Road Safety Corp (FRSC). Y alleged that he and his spouse were harassed and assaulted by officers of the FRSC resulting in bodily harm to his person and damage to his official vehicle, thus violating his right to dignity.

C/24/ESCR/273-274/LAG
The Lagos state office of the commission received a complaint dated 24th April 2024 from X, who alleged that she was living with her cousin and was being maltreated. She further alleged that this maltreatment left her health in bad condition. The complaint was admitted for investigation.

C/2024/CPR/130/KB
The Commission received a complaint from Y dated 28th November 2024, alleging that XY police officer is abusing both him and his son. Y requests intervention to prevent further incidents. The matter was admitted for investigation and intervention.

C/2024/CPR/117/KB
The Commission received a complaint from Y dated 22nd October 2024, alleging that Y assaulted Y his mentally ill father in Argungu Local Government. The matter was admitted for investigation and intervention.

C/2024/CPR/111/KB
The Commission received a complaint from X dated 8th October 2024, alleging that despite following procedures after her husband's death as a police officer XY Nigerian Police are yet to pay her husband benefits. The matter was admitted for investigation and intervention.

C/24/CPR/331/LAG
The Commission received a complaint dated 21st June 2024 from Y on the issue of alleged assault in Lagos state. Y stated further that X assaulted him. The matter was admitted for investigation and intervention.

C/2024/WC/192/KD
The Commission received a complaint dated 26th June, 2024 from XY alleging that XY three of their neighbours tortured their thirteen (13) years old daughter. The matter was admitted for investigation and intervention.

C/2024/591-592/IMS
The Commission received a complaint from Y dated 13th December, 2024 alleging that he was been intimidated and unlawfully denied his right to shelter by XY his landlord in Owerri, Imo State. The matter was admitted for investigation and intervention

C/24/ESCR/363/LAG
The Commission received a complaint dated 10th June 2024 from X. She alleged that his landlord disconnected the pipe that supplied water to her apartment because of a service charge and also called the police to arrest her. The matter was admitted for investigation and intervention.

C/24/ESCR/364/LAG
The Commission received a complaint dated 10th June 2024 from X. She alleged that her landlord locked her out of her apartment because of lawman fees. The matter was admitted for investigation and intervention.

C/24/VG/374/LAG
The Commission received a complaint dated 14th June 2024 from Y against X, his mother, alleging that X consistently treated him inhumanely, forcefully evicted him from their family home and reported him to the police for no just cause. The matter was admitted for investigation and intervention.

C/2024/CPR/128/ANS
The Commission received a complaint dated 2nd May 2024 from X alleging that on the 24th of April 2024, her neighbour's 3 daughters beat her and poured pepper into her eyes because she told them to stop littering the front of her house with poultry faeces in their compound at Tipper garage, Okpuno Awka, Anambra state. She narrowly escaped from them and crawled back home with the help of her daughter. All efforts to call them to order failed.

C/2024/CPR/159/ANS
The Commission received a complaint dated 28th May 2024 from X of Umueri, Anambra East LGA, Anambra state. X alleged that, Y, her husband, organized the town's youths to torture her and her sons without any evidence of what they were accused of. X sought the intervention of the Commission to help put a stop to the abuse.

C/2024/CPR/179/ANS
The Commission received a complaint dated 13th June 2024 from Y, a native of Ebenebe in Awka North LGA of Anambra state, alleging that his brother, while trying to force him out of his father's house, burnt some

of his belongings. Y sought the intervention of the Commission to prevent further abuse of his rights.

C/2024/555-556/IMS
The Commission received a complaint dated 19th November, 2024 from X alleging that her ex-mother-in-law who hails from Akwakuma okporo Orlu refused her from burying her 3-year-old daughter who died in 2022. The matter was admitted for investigation and intervention.

C/2024/CPR/98/CRS
The Commission received a complaint dated 4th November, 2024 from Y who works as the Chief Security Officer in Calabar Stadium alleged that Y the director of sports, Cross River State has repeatedly harassed and intimidated him and has also instigated his staff against him. He further alleged that this was because he had stopped the respondent from carrying out illegal activities within the stadium premises. The matter was admitted for investigation and intervention.

C/2024/CPR/215-216/EDO
The Commission received a complaint dated 9th September 2024 from Y against YY. Y alleges that on 31st August 2024, he was violently assaulted by YY and a group of individuals believed to be cultists. He was subsequently transported to a medical facility for treatment. The matter was admitted for investigation and intervention.

Chapter 3

BALANCING NATIONAL SECURITY AND PERSONAL LIBERTY: PROBLEMS AND PROSPECTS

By

Mariam A. Kadiri*

Introduction

Balancing national security and personal liberty is a perennial challenge for many nations, including Nigeria. As a country grappling with various security threats such as the Boko Haram insurgency in the Northeast, bandits activities in the Northwest, separatist movements in the Southeast, intercommunal violence, kidnappings, and a surge in cybercrime. Nigeria faces the critical task of ensuring the safety of its citizens while upholding their fundamental human rights. Since independence, Nigeria has often prioritized national security over human rights, citing terrorism and organized crimes as compelling reasons for this approach.

However, in a supposedly fast-growing democracy, these concerns can be addressed in other ways other than arbitrarily violating citizens' rights under the guise of combating terror and insecurity. This chapter explores the complex interplay between national security imperatives and personal liberties in Nigeria, examining the existing challenges, legal frameworks, and potential pathways towards achieving a harmonious balance.

Conceptual Clarification of Terms

National security involves safeguarding Nigeria's sovereignty, territorial integrity, and citizens from external and international threats or aggression. It also encompasses the state's ability to promote the pursuit and realization of the fundamental needs and vital interests of individuals and society, protecting them from economic, social, environmental, political, and military threats.[1] Former Nigerian President, Olusegun Obasanjo emphasized this by stating;

"The primary objective of National Security shall be to strengthen the Federal Republic of Nigeria to advance her interests and her objectives to

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1 T L Olawoye, 'The Sanctity of Rule of Law, National Security and Personal Liberty in Nigeria' (2021) 2(1) KIU Interdisciplinary Journal of Humanities and Social Sciences, 218 <_the-sanctity-of-rule-of-law-national-security-and-personal-liberty-in-nigeria.pdf > accessed 27 July 2024.

curtail instability, control crime, eliminate corruption, enhance genuine development, progress and growth and improve the welfare and well-being and quality of life of every person".[2]

Thus globally, security is a central topic in national discourse, vital for sustainable development and good governance. A country's security is measured by its political leadership's ability to anticipate, recognize and respond effectively to these threats using national resources to ensure the safety of life and property of the citizens. In essence, a secure environment provides a safe haven for other important socio-economic, religious, and political development. The inability of a nation to guarantee the safety of life and property of her citizenry undermines the very existence of the government of the nation and especially, that of social contract between the rulers and the ruled.

The right to personal liberty conversely is the right not to be subjected to imprisonment, arrest, and other physical coercion in any way without legal justification. It is the ability to live without undue interference from the government or its agencies. Right to personal liberty is one of the most important of all rights with a wider scope that encompasses other rights such as right to movement, right to peaceful assembly and association.[3]

Right to personal liberty does not imply total freedom from restraint but ensures individuals can fully utilize their faculties without harming others. It means not only freedom from bodily restraint but also, rights to contract, to have an occupation or acquire knowledge, to marry, have a home, children, to worship and have privileges recognized by law for the happiness of free men.[4]

Balancing these interests means finding an equilibrium point where national security measures are implemented to ensure the safety and well-being of citizens, without unnecessarily infringing on their personal liberties.

In the case of Unyirioha, v. IGP[5], the court held that 'by virtue of the provisions of section 35 (1) and 36(6) of the 1999 CFRN, every citizen is entitled to his personal liberty and no person shall be deprived of his liberty except as stipulated by the Constitution or any other statute.' The court further held that "a Nigerian citizen is entitled to his God given natural rights free from incarceration, save in accordance with, all the fundamental laws of the land, that is, the CFRN and other relevant legislations which are not inconsistent with the former.'[6]

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2 ibid n 2.
3 ibid.
4 ibid.
5 Unyirioha v IGP (2009) 3 NWLR (pt128) 342.
6 ibid n 2.

Legal Framework

International/ Regional

The Universal Declaration of Human Rights (UDHR), adopted by the United Nations General Assembly in 1948, serves as a foundational framework for balancing national security and personal liberty. The document enshrines the protection of individual rights while acknowledging the necessity of maintaining national security. It clearly outlines the fundamental rights and freedoms that every individual is entitled to, regardless of their circumstances.

Relevant articles include:

1. Article 3: Everyone has the right to life, liberty, and security of person.
2. Article 12: No one shall be subjected to arbitrary interference with their privacy, family, home, or correspondence, or to attacks upon their honour and reputation.
3. Article 29(2): In exercising their rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and meeting the just requirements of morality, public order, and general welfare in a democratic society.[7]

The International Covenant on Civil and Political Rights provides that everyone has the right to liberty and security of persons, no one shall be subjected to arbitrary arrest or detention, no one shall be deprived of his liberty except on such grounds and in accordance with such procedure as established by law.[8]

The Siracusa Principles define public safety as protection against dangers to individuals' safety, life, physical integrity, or property.[9] The European Convention on Human Rights and the International Covenant on Civil and Political Rights require legality, necessity, and legitimacy when limiting rights. The African Court on Human and Peoples' Rights permits limiting rights like association and assembly under conditions of legality and legitimacy.

In Media Rights Agenda and Constitutional Projects v. Nigeria,[10] the African Commission on Human and Peoples' Rights stated that the

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7 Universal Declaration of Human Rights https://www.un.org/en/about-us/universal-declaration-of-human-rights.< accessed July 27, 2024> accessed 26 July 2024.

8 Article 9(1) International Covenant on Civil and Political Rights <https://link.springer.com/chapter/10.1007/978-3-031-39622-9_4> accessed July 2024.

9 Siracusa Principles, Principle 33.

10 *Media Rights Agenda and Constitutional Projects v Nigeria*, ACmHPR Comm. 05/93, 128/94, 130/94 152/96, 12 Activity Report (1998), 64-71.

African Charter does not allow derogation clauses, and limitations must be based on legitimate state interests.

Necessity and proportionality are key elements in restricting liberties. Limitations must be proportionate to the desired outcomes and necessary to achieve them. Both the International Covenant on Civil and Political Rights and the European Convention on Human Rights specify that derogations should be strictly required by the situation. The Siracusa Principles emphasize that measures must be strictly necessary, proportionate to the threat, and respect the severity, duration, and geographic scope needed to address the threat. States have a margin of appreciation, or latitude, in applying these principles. Certain rights within human rights instruments have built-in limitations, prescribed by law and necessary in a democratic society for national security, public safety, public order, health, morals, or protecting others' rights and freedoms.[11] The Siracusa Principles mandate that limitations must be consistent with the Covenant, proportionate, and non-discriminatory.[12]

National

Since gaining independence, the Constitution of the Federal Republic of Nigeria have extensively addressed human rights. However, these rights are often limited by provisions aimed at ensuring national security, public health, public safety, ethics, and the freedoms of others. Specifically, the 1999 Constitution of the Federal Republic of Nigeria guarantees rights such as private and family life, freedom of thought, conscience, religion, expression, the press, peaceful assembly, and movement. Nevertheless, Section 45(1) of the same Constitution imposes restrictions on these rights.[13]

These derogatory clauses under Section 45 of the 1999 Constitution of the Federal Republic of Nigeria should not be used as an absolute carte blanche to deprive the court of judicial scrutiny when invoked. Section 45(1) of the Constitution unintentionally encourages the misuse of the term ‘national security,’ thus, legitimizing and legalizing human rights abuses. This section states: ‘nothing in Sections 37, 38, 39, 40, and 41 of this Constitution shall invalidate any law that is reasonably justifiable in a democratic society.’ Judicial review of the application of these provisions allows the court to identify genuine cases where

11 Article 22(2), International Covenant for Civil and Political Rights.

12 Principle 1, UN Commission on Human Rights, The Siracusa Principles on the Limitation and Derogation of Provisions in the ICCPR.

13 B O Omoleye and A Filani, ‘Law, Security and Development in Nigeria - A Legal Perspective’ (2019) 7(2) International Journal of Economics, Commerce and Management 766 <https://ijecm.co.uk/wp-content/uploads/2019/02/7252.pdf> accessed 20 July 2024.

Section 45(1) has been evoked and to declare it null and void when used as a pretext for human rights abuses. Under Section 45(1)(a), laws deemed reasonable and justifiable in the interests of defense, public safety, public order, public morality, or public health can be scrutinized by the court to determine if they genuinely serve public interest. The same applies to Section 45(1)(b), which deals with laws that protect the rights and freedoms of others.[14]

To strengthen human rights provisions in the Constitution, using *contra proferentem*[15] as a canon of interpretation is essential. Nigerian courts have adopted this method as the only viable alternative when facing statutes that encroach on human rights. This approach was notably effective during military regimes in confronting ouster clauses in decrees and should continue to be employed. Broad and draconian laws risk compromising human rights; thus, non-governmental organizations and groups should act as guardians of civil liberties by vigilantly monitoring and condemning anti-human rights laws. As stated by the Special Representative of the Secretary-General on Human Rights Defenders:

> 'Any organization has the right to defend human rights. Critically examining government actions and expressing these criticisms are essential components of democracy and must be legitimized in law and practice. States should not adopt laws or practices that make defending human rights unlawful.'

This underscores the crucial role of civil society in ensuring that national security is not misused to suppress human rights.

The Constitution recognizes that the primary purpose of government is to ensure the security of the lives and properties of citizens in a democratic state like Nigeria. Thus, the legitimacy of the Nigerian government is derived from its ability to provide national security as stipulated by the Constitution.[16]

Under Section 215, sub-section 3, of Part III in Chapter VI of the Constitution, the Nigeria Police Force (NPF) is subject to lawful directives from the President or an authorized Minister. These directives, pertaining to the maintenance and security of public safety and order, must be obeyed by the Inspector General of Police.

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14 Ibid n 14.

15 Gani Fawehinmi v. Abacha & 3 Ors (2000) 6 NWLR (Pt.660) 22.

16 K Nweke, Eunice Etido-Inyang, 'Issues of National Security and Human Rights in Nigeria: Case Study of Islamic Movement of Nigeria' <https://journals.scholarpublishing.org/index.php/ASSRJ/article/view/8171> accessed 27 July 2024.

Additionally, the Armed Forces of the Federation, which include the Army, Navy, and Air Force, are mandated by Section 217, sub-section 2 (a-c) of the Constitution to;

a) Defend Nigeria from external aggression,
b) Maintain territorial integrity and secure its borders by land, sea, or air,
c) Suppress insurrection and assist civil authorities in restoring order when called upon by the President, under conditions prescribed by an Act of the National Assembly.

The State Security Service, Section 2(3) of the National Security Act, is responsible for preventing and detecting crimes against Nigeria's internal security and protecting non-military classified information. [17]
The combined effect of these provisions stripped the courts of their jurisdiction, rendering Nigerian courts largely powerless when faced with legislations that prioritizes national security over human rights, particularly personal liberties. However, there have been instances where the courts have endeavored to uphold civil liberties by interpreting laws very strictly and narrowly against the state. In *Ubani v. Director of State Security Services,*[18] the Court of Appeal held that, although the ouster clause effectively ousted the jurisdiction to question its competence as it was superior to the Constitution, the Decree could not override the fundamental rights of the Appellant under the African Charter on Human and Peoples Rights which had been domesticated and now formed part of the corpus juris of Nigeria. The Court followed the majority decision in *Fawehinmi v. Abacha.*[19]

These provisions have often served as a cover for human rights abuses in Nigeria, as they have in many other jurisdictions. They are frequently used as a facade to flagrantly violate citizens' fundamental rights. Derogatory clauses in human rights provisions have also been used to suppress these rights. Despite arguments for prioritizing national interest over individual rights, the criteria for defining national interest and by extension, national security remain vague and ambiguous. This vagueness makes it a potent tool for subjugating citizens' rights even when national security is not genuinely threatened.[20]
Although many scholars argue that national security should take precedence over human rights, as Professor B.O. Nwabueze opines,[21] 'no carte blanche is given to the government to do whatever public

17 ibid n 14.
18 *Ubani v. Director of State Security Services* (1999) 11 NWLR Pt625, P. 129 (CA).
19 Fawehinmi v Abacha &3Ors 7 (2000) 6 NWLR (Pt 660) 228.
20 ibid n 14.
21 Nwabueze B.O (1997) Presidentialism in Commonwealth Africa, C. Hurst and Co (Publishers) 319.

security may require.' This raises a critical question; which branch of government, the executive or the judiciary, should determine whether an act in specific cases serves the state's interest or is done to protect national security? Derogation clauses in successive Nigerian Constitutions, grant this power to the executive branch. Section 45 of the 1999 Constitution of Nigeria gives the executive the prerogative to determine what constitutes national security. This power has been abused in many cases, such as those involving former National Security Adviser Sambo Dasuki,[22] and Shiite leader El Zakzaky and his wife Zainab, all detained by the State Security Service for breaches of national security.

Conclusion

National security is a paramount national concern, serving as the foundation of organized societies and state systems, and is often prioritized over human rights by many nations worldwide. Both national security and citizens' human rights are Constitutional provisions that should be respected. The protection of Nigeria's sovereignty and territorial integrity against external aggression and internal insurrection should not compromise citizens' fundamental rights.

Striking a proper balance between human rights and national security is essential, ensuring that the latter is not used as a pretext to undermine the former. Nigeria faces the challenge of maintaining a strong national identity free from ethnic and religious divisions, while also addressing secessionist movements and resource control conflicts. Insurgency and militancy threaten national unity, cohesion, and peaceful coexistence.

Government efforts should focus on soft approaches, accountability, and inclusiveness, using compromise to resolve conflicts for the sake of national security, stability, peace, prosperity, and sustainable development. These include prioritizing citizens' welfare in areas such as education, health, social security, and sustainable livelihoods. Additionally, derogation clauses in Nigeria's human rights provisions must undergo continuous judicial scrutiny and be monitored by civil societies, especially human rights organizations, to achieve a proper balance between human rights and national security in Nigeria.

Recommendations

1. Insurgency in the Northern part, insurrection in the Eastern parts, and aggression in the Western part of Nigeria has lessons of history. These agitations arose as rebellion against the Nigerian state because of military crackdown, proscription and perceived

22 *Mohammed Sambo Dasuki v Federal Republic of Nigeria* ECW/CCJ/APP/01/16.

victimization. The Federal Government of Nigeria should consider dialogue pursued to its logical conclusion in order to reach a truce with the people. Peace is costly; its maintenance is even much costlier. Proscribing a group of people as a terrorist group would only fuel hatred, create instability, oil religious and ethnic indoctrination and hatred against the Nigerian government. Dialogue and compromise should be applied to resolve these issues.

2. Strengthen Legal Framework**s:** Ensure that all security measures are grounded in a robust legal framework that respects human rights and personal liberties. These include updating existing laws and enacting new legislation that clearly defines the limits of security agencies' powers.
3. Strengthen the Judiciary: The Judiciary has to be independent, this way, it will enhance justice delivery and checks on arbitrary use of executive powers.
4. Promote Oversight**:** Establish independent oversight bodies to monitor the activities of security agencies. These bodies should have the power to investigate abuses and ensure that security operations comply with legal standards.
5. Enhance Transparency and Accountability: Increase transparency in security operations by regularly publishing reports on the activities of security agencies. Implement mechanisms for holding officials accountable for any violations of personal liberties.
6. Community Engagement and Trust-Building: Foster strong relationships between security agencies and local communities. This can be achieved through community policing initiatives, regular dialogues, and public awareness campaigns about the role and limitations of security operations.
7. Training and Capacity Building**:** Provide ongoing training for security personnel on human rights and the importance of protecting personal liberties. Develop capacity-building programs that emphasize de-escalation techniques and the use of non-lethal force.
8. Strengthen Civil Society: Support the role of civil society organizations in advocating for personal liberties and monitoring government actions. Ensure these organizations have the freedom to operate without undue interference.
9. Implement Social and Economic Reforms: Address the root causes of insecurity by implementing social and economic reforms that reduce poverty, inequality, and unemployment. A stable and prosperous society is less prone to the threats that necessitate stringent security measures.
10. Regular Review and Adaptation: Establish mechanisms for regularly reviewing and adapting security policies to ensure they remain

effective and respect personal liberties. This includes soliciting feedback from a broad range of stakeholders, including civil society, legal experts, and the general public.

Some of the Complaints Received by the Commission under Rights to Personal Liberty are as follows:

C/2024/CPR/065/RSO
The Commission received a complaint dated 18th January 2024 from XY of Eleme Rivers State alleging that his son had a misunderstanding with his fellow bitcoin trader, which later generated into a fight but the matter was reported to the Police and his son was arrested and detained for twelve days, all efforts to bail him out proved abortive, and the Police were yet to investigate or charge the case to court when the commission reached out to the Police, they immediately charged the matter to court**.**

C/2024/CPR/032/JG
The Commission received a complaint dated 28th February 2024 from XY of Atafi quarter, Hadejia Local Government, Jigawa State on the alleged unlawful detention of his father by the Hadejia Police Division from 22nd February 2024 to date without granting bail or arraigning him before court.

C/2024/WC/104-105/OS
The Commission received a complaint dated 9th of February 2024 from Y, alleging Y, for using Nigeria Police (Pere Police Station, Ede) to forcefully seize his personal properties.

C/NHRC/OYO/2024/015/WCG
The Commission received a complaint dated 8th February 2024 from Y who resides at Agidigbo Broadcasting Cooporation Ojoo, Ibadan. Y alleged Y of child abuse.

C/NHRC/OYO/2024/005/CPR
The Commission received a complaint via phone call dated 27th January 2024 from X on alleged unlawful detention and extortion by Nigerian police Eleyele, Ibadan.

C/NHRC/OYO/2024/006/CPR
The Commission received a complaint dated 6th March 2024 from JTOV Ajetumobi Street, Agbowo UI Ibadan alleging State Command Police Force Eleyele, Ibadan.

C/2024/CPR/9959/PL
The Commission received a complaint dated 22nd January 2024 from XY of Jos East, Plateau State against Y, who owns a farm next to XY at Jos East Plateau State. XY alleged that one of her workers was beaten up and unlawfully detained for 5 days at the instruction of the Respondent for allegedly burning his farm. The farm got burnt due to the effect of the fire that escalated while the victim was burning debris on XY's farm. The matter was admitted for investigation and intervention.

C/2024/CPR/10051/PL
The Commission received a complaint dated 9th February 2024 from X, 25 years, of Abbatoir, Jos-South, Plateau State. X brought allegations against Y, her ex-fiancee residing in Jos, Plateau State, of harassment and violation of her right to liberty. The matter was admitted for investigation and intervention.

C/2024/CPR/10018/PL
The Commission received a complaint dated 1st February 2024 from XY who is a human rights activist and also resides at No. 6 Bauchi Road Adjacent to Salisu Adamu, Jos North, Plateau State, alleged that the victim was arrested from his residence and taken to Anti-Kidnapping Unit of Anglo Jos Police Station. X further alleged that the victim was then taken to the SAS office at Appo Road Abuja where he was further detained for close to two weeks and there has not been any reason or information with regards to the arrest. The victim's two children were also arrested and detained at Appo Road Abuja. The matter was admitted for investigation and intervention.

C/24/LEG/292/LAG
The Commission received a complaint dated 10th May 2024 from Y alleging illegal seizure of properties, extortion, intimidation and unlawful detention by the Nigerian Police Force. The matter was admitted for investigation and intervention.

UNLAWFUL ARREST AND DETENTION

C/2024/CPR/40/KGS
The Commission received a complaint dated 18th October, 2024 from XY on behalf of Y, alleging that Y was arrested in Samunaka, Kogi State, on the 11th of October 2024. XY stated that the reason for Y's arrest remains unclear, as Y is a law-abiding citizen. XY further mentioned that the arrest was carried out by members of the Vigilante group in Egbe. It was alleged that Y was initially released after an extortion of one million, nine hundred and ninety thousand naira but was later rearrested without

explanation. XY claimed that, as of the time of filing the complaint, Y had not been handed over to the police nor released on bail and was still in the custody of the Vigilante group in Egbe, Kogi State. The complainant has requested the Commission’s intervention to secure Y's release or ensure the Vigilante group hands him over to the police for investigation and possible arraignment before a court of competent jurisdiction, if any case exists against him. The complaint was admitted for investigation.

C/2024/CPR/42/KGS
The Commission received a complaint dated 18th November, 2024 from Y, in which he alleged that he was arrested at his residence on false charges of cyber-fraud and was detained for 15 days without any evidence or the opportunity to prove his innocence. The complainant has requested the Commission’s intervention to help secure justice. The complaint was admitted for investigation.

C/2024/CPR/217/EDO
The Commission received a complaint dated 9th September 2024 from Y, a resident of Benin City. Y alleges that he was unlawfully arrested by the police in lieu of his half-brother. Despite finding no incriminating evidence during a search of his phone, Y was detained at SCID Asaba based on his brother's alleged involvement in internet fraud. Y further alleges that he was unlawfully detained for three days and compelled to pay a ₦150,000.00 bribe to secure his release. He also claims to have been coerced into signing a statement drafted by the investigating police officer. Y sought the Commission's intervention. The matter was admitted for investigation and intervention.

Chapter 4

THE PROTECTION OF THE RIGHT TO FREEDOM OF EXPRESSION AND THE PRESS IN THE MODERN ERA

By

Fatimah Agwai Mohammed*
and
Jenny Torhee**

Introduction

Right to freedom of expression and the press is one of the fundamental human rights that empowers people to speak out and air their views or feelings on any subject matter without interference or fear of victimization from any entity/authority.

Although all human rights have equal status, right to freedom of expression and the press enhances the promotion of other rights in the sense that it creates more awareness about the existence of other rights. Little wonder the press leverage this right to sensitize and educate the public on important issues in the society. The press, in the exercise of this right can carry out surveillance functions in the society and set agenda for the government. The theme for the World Press Freedom Day in 2023 "Shaping a future of rights- Freedom of Expression as a driver for all other human rights"[1] emphasizes this.

The right to freedom of expression and the press is enshrined in various international and regional instruments, including the Universal Declaration of Human Rights (UDHR)[2] and the African Charter on Human and Peoples' Rights (ACHPR).[3] Nigeria, as a signatory to these instruments, has an obligation to protect and promote this right which is the corner stone of democracy.

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1 'Lawan hails Nigerian journalist on World Press Freedom Day' *The Punch* (Nigeria, 3 May 2023) <https://punchng.com/lawan-hails-nigerian-journalist-on-worls-press-freedom-day/> accessed 1 August 2024

2 UN General Assembly, *Universal Declaration of Human Rights* (adopted 10 December 1948) UNGA Res 217 A (111), art 19 <https://www.un.org/en/about-us/universal-declaration-of-human-rights> accessed 1 August 2024.

3 Organization of African Unity African Charter on Human and Peoples Rights (adopted 27 June 1981, entered into force 21 October 1986) art 9 < https://achpr.au.int> accessed 1 August 2024

However, the country's record on freedom of expression and the press has been marred with various challenges and controversies in modern times. Nigeria has a long history of struggling with the protection of fundamental human rights, particularly Freedom of Expression and the Press which still persists. The country grapples with the challenges of ensuring the safety and independence of journalists, bloggers, and other media practitioners who have arisen, especially in the age of the new media.

This chapter examines the state of freedom of expression and press freedom, highlighting obstacles, and threat to freedom of expression and the press as well as suggest mechanisms for dealing with some of these obstacles.

Conceptual Clarification of Terms

For ease of understanding and appreciation of the subject matter, the following key concepts have been identified and defined;

Freedom

This refers to the ability to operate freely without restriction either by an individual, constituted authority or non-state actor. It can also be seen as the liberty that is inherent in any creature to carryout activities as they please. Nelson Mandela defines freedom as “the ability to live life as one wants to live it, without fear of persecution or operation”.[4]

Expression

It denotes an act of disseminating or conveying feelings, emotions, opinions, thoughts, ideas, and concerns using various forms of communication available. The Merriam-Webster Dictionary defines expression as “the process of giving form or utterance to thoughts, feelings or ideas”.[5]

The Press

The Press refers either to a group of people known mostly as journalists or news outlets, organizations and their art of writing, reporting, photography, videography etc. who work in disseminating information on media platforms such as print, electronic and social media for public consumption.

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4 Nelson Mandela, *Long Walk to Freedom*: *The Autobiography of Nelson Mandela*, (1st edn, Macdonald Purnell 1994) < https:/www.abebooks.com> accessed August 1 2024.

5 Merriam-Webster, ‘Expression’ (*Merriam-Webster.com Dictionary*, 1 August 2024) <https/www.merriam-webster.com/dictionary/expression> accessed 1 August 2024

In addition to educating, entertaining and keeping the masses informed, the press serves as a watch dog of the society, affording citizens the best means of discovering or forming opinion or ideas on the conduct of political leaders towards their citizens.

Legal Frameworks

The legal instruments upon which the right to freedom of expression and the press is premised, are cited as follows;

International

Article 19 of the Universal Declaration of Human Rights (UDHR) 1948[6] states as follows:

> "Everyone has the right to freedom of opinion and expression, this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas of all kinds, regardless of frontiers"
>
> Article 19 (3) of the International Covenant on Civil and Political Rights (ICCPR)[7]

1. "Everyone has the right to freedom of opinion and expression, this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas of all kinds, regardless of frontiers"
2. The exercise of these rights and freedoms may be subject to restrictions, but these shall be such as are provided by law and are necessary for the rights and reputations of others or of public order, or of public health or morals.

Regional

Article 9 of the African Charter on Human and People's Rights [8] provides that "Everyone shall have the right to receive information and to express and to express their opinions within the law."

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6 UN General Assembly, *Universal Declaration of Human Rights* (adopted 10 December 1948) UNGA Res 217 A (111), art 19 <https://www.un.org/en/about-us/universal-declaration-of-human-rights> accessed 1 August 2024.

7 UN General Assembly, *International Covenant on Civil and Political Rights* (adopted 16 December 1966, entered into force 23 March 1976) UNTS 171, art 19 https://www.un.org/en/about-us/international accessed 1 August 2024.

8 Organization of African Unity African Charter on Human and Peoples Rights (adopted 27 June 1981, entered into force 21 October 1986) art 9 < https://achpr.au.int> accessed 1 August 2024

Domestic

Nigeria's Constitution guarantees freedom of expression and the press in Section 39(1),[9] which 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, this provision is subject to limitations under Section 39(2), which allows for restrictions on grounds of public safety, public order, public morality, or public health.

In addition to the Constitution, Nigeria has enacted several laws that impact on freedom of expression and the press, they include:

The Cybercrime Act (2015)

The Terrorism Prevention Act

The Nigerian Press Council (NPC) Bill

The National Broadcasting Commission (NBC) Amendment Bill and

The National Broadcasting Commission Act

The Freedom of Information Act 2010

Challenges of Protection of the Right to Freedom of Expression and the Press.

In today's interconnected world, the protection of the right to freedom of expression and the

press is more critical than ever as it remains essential for the functioning of democratic societies. It enables individuals to express their thoughts, access diverse information, and hold authorities accountable. However, in the modern era, this right faces numerous challenges that require robust protection mechanisms.

Rise of Digital Platforms and the Internet

One of the primary challenges to freedom of expression and the press today is the rise of digital platforms and the internet. While these platforms have improved information dissemination and expanded the reach of journalism, they have also become arenas for misinformation, hate speech, and state-sponsored censorship.

Repressive Laws

Governments worldwide have sought to regulate online content with repressive laws, in a way of protecting national security or public order. Unfortunately, these measures sometimes lead to excessive restrictions on free speech, undermining the very essence of democratic discourse. Here are some notable examples of repressive laws:

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9 Constitution of the Federal Republic of Nigeria 1999 (as amended) s 39 Section 39 (I).

Cybercrime Act (2015)
This act regulates internet and online activities, including prohibitions on cyber-bullying, identity theft, and the spread of false information. It has been criticized for being used to stifle free speech by targeting journalists and bloggers who report on sensitive issues[10]

The Official Secrets Act (OSA)
The Official Secrets Act (OSA) is also considered repressive to freedom of expression and the press because it imposes strict restrictions on the disclosure of information deemed to be confidential by the government. Under the OSA, individuals, including journalists can face severe penalties, including imprisonment, for revealing classified information, even if the disclosure serves the public interest. This creates a chilling effect on investigative journalism and restricts the ability of the press to hold the government accountable, as reporters may refrain from publishing important stories due to fear of legal repercussions.

Terrorism Prevention Act
This law criminalizes the "glorification" of terrorism and has been used against journalists and bloggers reporting on militant activities, for instance report on Boko Haram. It has been employed to intimidate those covering topics related to terrorism and security issues[11]

Nigerian Press Council (NPC) Bill
Although the debate on this bill was suspended in 2021 following media protests, it aimed to give the President the power to appoint members of the council's board, allowing for increased governmental control over media regulations. The bill also proposed penalties, including imprisonment, for certain infractions.[12]

National Broadcasting Commission (NBC) Amendment Bill
Similar to the NPC bill, this proposed amendment aimed to extend the regulatory authority of the NBC to cover all online media. It also sought

10 Washington Centre 'Protecting Free Speech in Nigeria: The Role of International Organizations' (3 March 2023) <https://www.washingtoncentre.org/2023/03/03/protecting-free-speech-in-nigeria-the-role-of-international-organizations/> accessed 2 August 2024.

11 Washington Centre for Diplomacy and Development, *Protecting Free Speech in Nigeria: The Role of International Organizations* (3 March 2023) <https://www.washingtoncentre.org/2023/03/03/protecting-free-speech-in-nigeria-the-role-of-international-organizations/> accessed 2 August 2024.

12 IFEX, *Nigeria government suspends controversial amendments to media laws* (IFEX, 13 July 2021) <https://ifex.org/nigerian-government-suspends-controversial-amendments-to-media-laws/> 30 June 2025.

to grant significant prosecutorial powers to the President and the Minister of Information. [13]

National Broadcasting Commission Act

This act provides the NBC with broad powers to regulate broadcast content, grant or revoke licenses, and impose fines. This can be used to control media narratives and silence dissenting voices. [14]

Hate Speech Bill

Proposed multiple times, this bill seeks to criminalize hate speech with severe penalties, including the death penalty in earlier drafts. While it aims to curb hate speech, critics argue that its broad definitions could be used to stifle free expression and target dissenting voices, leading to potential abuses against journalists and activists (Amnesty International, Nigeria 2020).

According to Seun Bakare, the programs manager of Amnesty International "this bill supported by the Nigerian government, represents an alarming escalation in the authorities' attempts to censor and punish social media users for freely expressing their opinions"[15]

These laws and proposed regulations have been criticized for their potential to suppress press freedom and limit freedom of expression. They contribute to a media environment where journalists and media practitioners face the risk of legal action, harassment, or violence, particularly when reporting on government actions, corruption, or human rights abuses.

Intimidation and Harassment

The safety of journalists is another pressing concern. In many parts of the world, journalists face harassment, intimidation, and violence for their work. The rise in attacks against journalists, both online and offline, creates a chilling effect that stifles free expression and undermines the role of the press as a watchdog of society. Ensuring the safety of journalists is paramount in preserving their ability to report freely and independently.

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13 Ibid.

14 Career Naija, *Media Regulation in Nigeria: What you need to know* (proffessions.ng, 7 July 2023) <https://professions.ng/media-regulation-in-nigeria/> accessed 2 September 2024.

15 Amnesty International, Nigeria: Bills on hate speech and social media are dangerous attacks on freedom of expression (Press release, 4 December 2019) <www.amnesty.org/en/latest/pressrelease-/2019/12/nigeria-bills-on-hate-speech-and-social-media-are-dangerous-attacks-on-freedom-of-expression-2/> accessed 30 June, 2025.

In Nigeria, journalists face numerous challenges and threats, often exacerbated by the rise of digital media platforms. The protection of journalists has therefore been of significant concern. Recent reports show that journalists often face physical assaults, arrests, and intimidation, either by security forces, political or other actors, which severely hinders press freedom and freedom of expression[16]
Here are some of the examples of threats and intimidation faced by journalist in Nigeria:

Police and Security Forces: Nigerian security forces frequently harass journalists covering sensitive issues. For instance, Gabriel Idibia, a freelance journalist, was arrested and assaulted by police while snapping officers in Kaduna in June 2024 (Committee to Protect Journalists).[17] Similarly, Nurudeen Akewushola and another journalist from ICIR were summoned and questioned by police over a corruption report (Committee to Protect Journalists). [18]

Arbitrary Arrests and Detentions: In May 2024, journalist Precious Eze Chukwunonso was detained for 18 days following a complaint about his report on a local business (Committee to Protect Journalists)[19]
Earlier in the year, the army detained Dele Fasan, a journalist with Galaxy Television, for recording a labour protest in Warri.[20]

Threats and Intimidation: Several Journalists are exposed to threats due to their work. Ebule Anthony Metsese, editor-in-chief of Fresh Angle International, reported receiving threats linked to his report on events in Delta State (Media Foundation for West Africa)[21] .

Digital Harassment and Cyberstalking: Activist Abdulganiu Olushipo was arrested for sharing information on WhatsApp about alleged

16 Media Foundation for West Africa, Press Freedom in Nigeria: The spiral of Repression continues in 2024 (MFWA, 10 April 2024) <https://www.mfwa.org/press-freedom-in-nigeria-the-spiral-of-repression-continues-in-2024/> accessed 1 August 2024.
17 Commitee to Protect Jornalists, *Nigeria* (CPJ website) <https://cpj.org /africa/nigeria/> accessed 1 August 2024.
18 Ibid.
19 Ibid.
20 Media Foundation for West Africa, Press Freedom in Nigeria: The spiral of Repression continues in 2024 (MFWA, 10 April 2024) <https://www.mfwa.org/press-freedom-in-nigeria-the-spiral-of-repression-continues-in-2024/> accessed 1 August 2024.
21 Ibid.

budgetary mismanagement by a local government official. He was accused of cyberstalking and cyberbullying.[22].

Election-Related Violence: Journalists are often targeted during elections. For example, Omoniyi Feranmi was arrested in Ekiti State while covering the gubernatorial elections and accused of inciting violence[23]

Several incidents in 2024 alone illustrate the hostile environment in which journalists operate while covering elections, they have either been attacked or detained. Media professionals reporting on sensitive topics like electoral fraud or human rights abuses face targeted threats[24]

These incidents highlight the significant risks journalists face in Nigeria, particularly when reporting on corruption, political issues, and government accountability. Organizations like the Committee to Protect Journalists and the International Press Centre have been documenting these threats and advocating for greater protections for journalists[25]

Suppression through Legal Framework: Legal frameworks like the Cybercrime Act and the Terrorism (Prevention and Prohibition) Act are often used to suppress journalistic activities by criminalizing certain expressions and granting broad powers to authorities to detain journalists

Media Ownership

The concentration of media ownership poses a significant threat to press freedom. A few corporations often control major media outlets, leading to a homogenization of perspectives and a reduction in the diversity of voices in the public sphere. This consolidation of media power can limit critical reporting and investigative journalism, which are crucial for exposing corruption and human rights abuses. Here are some ways in which this issue manifests in Nigeria:

Bias and Editorial Influence*:* When media ownership is concentrated, the owners can exert significant influence over the editorial direction of the outlets. This often results in coverage that favors the owners' political or economic interests, leading to biased reporting.

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22 Ibid.

23 T Abdulkabeer, Ahead of Nigeria's elections, a rise in attacks on journalists (Internal Journalists Network,3 October 2022) https://ijnet.org/en/story/ahead-nigerias-elections-rise-attacks-journalists accessed 3 August 2024.

24 Article 19, Nigeria: *New administration must prioritize journalist' safety* (9 March 2022) https://www.article19.org/resources/nigeria-new-administration-must-prioritise-journalists-safety accessed 1 August 2024

25 Ibid.

***Example**:* According to a report by the Nigerian Press Council, several major media outlets in Nigeria are owned by individuals with direct ties to political parties or politicians.[26] For instance, Raymond Dokpesi, the founder of Daar Communications who owns Africa Independent Television (AIT) and Raypower FM, has been involved in politics as a member of the People's Democratic Party (PDP).

Limited Diversity of Perspectives: Concentrated media ownership can lead to a homogenization of content, where only certain perspectives are represented while others are marginalized. This stifles debate and reduces the diversity of voices in the public sphere.
Example: The Media Ownership Monitor Nigeria, a project by Reporters Without Borders and the Media Rights Agenda, highlights that[27] "the majority of Nigeria's media is owned by a small number of powerful individuals and conglomerates. These owners often prioritize content that aligns with their interests, which can limit the diversity of viewpoints available to the public".

Self-censorship and fear of retribution: Journalists working for media outlets owned by powerful individuals may practice self-censorship to avoid conflicts with their employers. This fear of retribution can hinder investigative journalism and the reporting of issues critical to the public interest.
***Example**:* The 2022 World Press Freedom Index by Reporters Without Borders notes that "Nigerian journalists often face pressure from media owners to align with their political or economic interests, leading to self-censorship".[28]

Challenges to regulatory independence: Regulatory bodies that are supposed to oversee media operations may be influenced or controlled by the same interests that own major media outlets. This undermines the effectiveness of media regulation.
Example: A study by the Nigerian Institute of Journalism found that political interference in media regulation is a significant issue in Nigeria, as regulatory bodies like the National Broadcasting Commission (NBC) have been accused of bias towards government-aligned media[29]

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26 Nigerian Press Council, *Homepage* <https://new.presscouncil.gov.ng/> accessed 3 August 2024

27 *New Media and mass communication* ISSN 2224-3267 (paper) ISSN 2224-3275 (online)

28 Reporters Without Borders, 2022 World Press Freedom Index: A New Era of Polarization (2022) <https://rsf.org/en/index2022> accessed 3 August 2024.

29 Nigerian Institute of Journalism, *Home Page* <https://nij.edu.ng/> accessed 4 August 2024.

The concentration of media ownership in Nigeria therefore poses significant threat to press freedom by limiting diversity, encouraging bias, and fostering self-censorship. Efforts to address these challenges include promoting independent journalism, supporting media literacy, and advocating for stronger regulatory frameworks that ensure media diversity and independence.

Protecting the Rights to Freedom of Expression and the Press

To protect the right to freedom of expression and the press in the modern era, a multifaceted approach is necessary. First, legal frameworks should be strengthened to prevent undue censorship and promote transparency and accountability in government actions.

The Freedom of Expression and the Press **(FOI)** act should particularly be strengthened to enable journalists have unhindered access to information and to provide an enabling environment for them to play their role as the fourth estate of the realm.

Government has the responsibility and is expected to amend restrictive laws and ensure accountability for those who perpetrate violence against media practitioners

Also, media literacy programs should be promoted to equip individuals with the skills needed to critically evaluate information and recognize misinformation. Empowering citizens to navigate the complex media landscape can foster a more informed and engaged public, capable of participating actively in democratic processes.

Finally, international cooperation is essential in addressing the global challenges to freedom of expression and the press. Countries should work together to uphold international human rights standards and share best practices in safeguarding these rights. International organizations and civil society must continue to advocate for the protection of journalists and promote free expression worldwide.

Conclusion

In the modern era, the protection of the right to freedom of expression and the press is vital for the functioning of democratic societies. These rights empower individuals to express their thoughts, access diverse information, and hold authorities accountable. However, numerous challenges threaten these freedoms, requiring comprehensive and multifaceted strategies to safeguard them.

Nigeria's legal and institutional frameworks, while providing for the right to freedom of expression and the press, face significant hurdles in implementation. Repressive laws, intimidation and harassment of journalists, concentration of media ownership, and digital platform challenges continue to undermine these fundamental rights. The rise of digital platforms, while expanding access to information, has also

facilitated the spread of misinformation, hate speech, and censorship, further complicating the media landscape.

To protect these rights, Nigeria must strengthen its legal frameworks to prevent undue censorship, ensure the safety of journalists, and promote accountability for those who threaten press freedom. Amending restrictive laws and enacting protections for journalists and whistle-blowers are essential steps in this direction. Additionally, fostering media literacy programs can empower citizens to critically evaluate information, thereby fostering a more informed public capable of engaging in democratic processes.

International cooperation is equally crucial in addressing these global challenges. Countries must work together to uphold international human rights standards and share best practices in protecting freedom of expression and the press. International organizations and civil society have a critical role in advocating for these rights and supporting efforts to safeguard journalists and media practitioners worldwide.

Recommendations

Strengthen Legal Protections: Amend existing laws and enact new legislation that explicitly protects journalists and media practitioners from harassment, intimidation, and violence. Ensure that legal frameworks align with international human rights standards to prevent censorship and uphold freedom of expression.

Promote Media Literacy: Implement nationwide media literacy programs to equip citizens with the skills needed to critically assess information, recognize misinformation, and engage constructively in democratic discourse. This will foster a more informed and resilient public.

Ensure Journalist Safety: Establish comprehensive safety mechanisms for journalists, including emergency support, legal assistance, and protection measures. Hold perpetrators of violence against journalists accountable to deter future threats and create a safe environment for media practitioners.

Encourage Diverse Media Ownership: Implement policies that promote diversity in media ownership to prevent the concentration of power and ensure a plurality of voices and perspectives in the public sphere. This will enhance the media's role as a watchdog and foster critical reporting.

Foster International Collaboration: Strengthen international cooperation in promoting and protecting freedom of expression and the press. Engage with international organizations and civil society to share best practices, monitor violations, and advocate for global standards in press freedom.

By implementing these recommendations, Nigeria can create a robust environment that upholds the right to freedom of expression and the press, supporting democratic governance and the protection of human rights. Such efforts will contribute to a more open, transparent, and accountable society where individuals can freely express their views and access the information necessary for informed decision-making.

Chapter 5

Right To Fair Hearing and Oversight Mechanisms in Nigeria

By

Winifred E. Atusue*

Introduction

The right to fair hearing is a cornerstone of the rule of law and fundamental human rights guaranteed in democratic societies. In Nigeria, this right plays a crucial role in ensuring justice, fairness and accountability within both judicial and administrative systems. The concept of fair hearing means that every individual has the right to be heard before a competent and impartial tribunal, this is central to the principles of justice. In addition to this right, the existence of effective oversight mechanisms is essential to ensure transparency and accountability. This paper seeks to explore the relationship between the right to fair hearing and oversight mechanisms in Nigeria, examining the legal frameworks that support these principles and the challenges faced in their full implementation.

Conceptual Clarification of Terms

Right to fair hearing: The right to fair hearing is enshrined in Section 36 of Nigeria's Constitution[1], as well as other regional and international human rights law. This right guarantees an individual's entitlement to hearing before an impartial tribunal, timely access to justice, an opportunity to present one's case, and the right to be informed of charges against them[2]. It is essential for the protection of individuals' rights and freedoms and helps ensure that judicial and administrative decisions are based on the principles of fairness and equity.

Oversight mechanisms: Oversight refers to the processes and structures designed to monitor, evaluate and ensure the proper functioning of institutions, governance and the implementation of policies. In the Nigerian context, available oversight mechanisms include legislative oversight, judicial review, anti-corruption agencies, quasi-

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1 The Constitution of the Federal Republic of Nigeria 1999.

2 C C Jalloh and others, The African Court of Justice and Human and Peoples' Rights in Context Development and Challenges: (Fourth Series Cambridge University Press 2019)

judicial mechanisms, civil society organisations and the media. These mechanisms play an important role in ensuring that the government operates within the ambits of the law and hold officials accountable for their actions.

Legal Framework

The right to fair hearing is universally recognized and safeguarded by various domestic, regional and international instruments. In Nigeria, a wide range of legal instruments, including conventions, treaties, laws and case law serve to protect this right, some of which are discussed below.

International Instruments

Nigeria is a signatory to several international human rights instruments that recognize and protect the right to a fair hearing. These include the Universal Declaration of Human Rights, which affirms in Article 10, that everyone has the right to a fair and public hearing by an independent and impartial tribunal to determine their rights, obligations, or criminal charges[3]. Similarly, the International Covenant on Civil and Political Rights guarantees the right to a fair and public hearing in Article 14, ensuring that all individuals are treated equally before the law and afforded a fair trial[4]. These provisions collectively uphold the principles of fairness, equality, and justice before competent, independent, and impartial tribunals.

Regional Instruments

As a member of the African Union, Nigeria is also bound by the provisions of the African Charter on Human and Peoples' Rights and other regional instruments that emphasize the importance of fair hearing and oversight mechanisms in promoting good governance and democracy. Specifically, Article 7 of the African Charter[5] guarantees that every individual shall have the right to be heard, ensuring fair and impartial legal proceedings. This provision plays a significant role in safeguarding human rights and reinforcing the principles of justice and accountability across the region.

Under its mandate in Article 45(c) of the African Charter, which empowers the African Commission on Human and Peoples' Rights to formulate and lay down principles and rules aimed at solving legal

3 United Nations, Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A (III).

4 International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171.

5 African Charter on Human and Peoples' Rights (adopted 27 June 1981, entered into force 21 October 1986), Article 7

problems relating to human and peoples' rights and fundamental freedoms, upon which African states may base their legislation[6], the Commission has established the *Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa*[7]. These principles provide crucial guidelines for ensuring the right to a fair hearing across the continent, emphasizing the need for independence and impartiality of the judiciary, access to legal representation, and a transparent judicial process.

National Instruments

The Nigerian Constitution in Sections 36 and 37 guarantee this right. Section 36 (1) provides that:

> "In the determination of his civil rights and obligations, including any question or determination by or against any government or authority, a person shall be entitled to a 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.[8]"

This section ensures that every person is entitled to a fair and public hearing within a reasonable time by an independent and impartial court or tribunal. Additionally, statutory provisions and case law further delineate the scope and application of the right to fair hearing and oversight mechanisms in Nigeria.

In the case of *Kotoye v Central Bank of Nigeria*[9] the Supreme Court held that fair hearing as guaranteed by the Constitution requires that every reasonable and fair minded observer who watches proceedings should be able to conclude that the court or tribunal has acted impartially towards all parties concerned. This implies that the proceedings must be conducted in a manner that ensures both transparency and equality, giving each party an opportunity to present their case without bias or undue influence.

Oversight Laws and Agencies

As earlier highlighted, Nigeria has established several oversight mechanisms designed to ensure the protection and enforcement of fundamental rights, including the right to fair hearing. These mechanisms contribute significantly to the full realisation of this right. Laws and

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6 ibid.

7 African Commission on Human and Peoples' Rights, Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa (2003).

8 Constitution of the Federal Republic of Nigeria (CFRN) 1999, Section 36 (1).

9 *Kotoye v. Central Bank of Nigeria* (1985) 1 NWLR (Pt. 98) 419.

agencies such as the 1999 Constitution of the Federal Republic of Nigeria, the Freedom of Information Act, the Administration of Criminal Justice Act of 2015, the National Assembly, the National Human Rights Commission, the Economic and Financial Crimes Commission are central for upholding these protections and ensuring accountability within the legal and public administration system[10].

The National Assembly, through its various committees, exercises significant oversight functions, including the power to scrutinize government actions and decisions, ensuring that they align with constitutional and legal standards. These committees are empowered to investigate, review, and monitor government activities to ensure transparency and accountability.

Anti-corruption agencies such as the Economic and Financial Crimes Commission and the Independent and Corrupt Crimes Commission provide oversight in addressing corruption and promoting accountability within the public sector, further contributing to the integrity of legal and governmental processes.

The judiciary also plays an oversight role by reviewing cases to ensure they are heard in line with the principles of fairness, justice and the rule of law, culminating into respect for the right to fair hearing. Nigerian courts have made many significant judgments that emphasize the importance of fair hearing. Cases such as Eze V Federal Republic of Nigeria[11] where the Supreme Court held that the principle of fair hearing in the process of adjudication and administration of justice is fundamental and so entrenched in the constitution of the Federal Republic of Nigeria and common law demonstrates the judiciary's commitment to enforcing this right, especially in the context of executive power and decision making.

Civil society organizations and the media also serve as vital oversight mechanisms, pushing for transparency and justice[12]. We have seen countless times how they serve as the conscience of the nation and monitor the temperature of democracy in Nigeria. However, they often face harassment, censorship and intimidation, particularly when their findings threaten powerful and/or economic interest.

10 K O Amusa, 'Legislative Oversight Functions in Nigeria – Odyssey of Hunters Becoming the Hunted' Danubius University in Romania 2013 Acta Universitatis Danubius Law Review Journal, Vol. 9 No. 2, < https://journals.univ-danubius.ro/index.php/juridica/article/view/1867> accessed 20th July 2024.

11 *Eze v. FRN* (2018) All FWLR (Pt923) 172.

12 T Santas and S Garba, 'Civil Society, Mass Media and Democratic Governance in Nigeria' (2020) 5 Mass Communication & Society 178-289.

Challenges in Ensuring the Right to Fair Hearing in Nigeria

One of the significant challenges Nigeria faces in ensuring the right to a fair hearing is the widespread delay in judicial proceedings. Cases are often adjourned for prolonged periods, depriving individuals of timely access to justice. There are also concerns about the impartiality of courts with some critics arguing that the influence of political power, corruption and undue interference affects the independence of the judiciary which further undermines the enjoyment of the right to fair hearing[13]. Another issue is access to adequate legal representation, which is essential for the right to fair hearing. Many Nigerians are unable to afford proper legal counsel, and despite efforts by the Legal Aid Council of Nigeria, the provisions available are largely insufficient to meet the demands in many states.[14] This results in an imbalance in the judicial process, again undermining the right to fair representation and trial.

While the National Assembly has oversight responsibilities, there is often limited political will to hold the executive accountable, over compromising the effectiveness of legislative oversight.

Conclusion/Recommendations

The right to fair hearing and effective oversight mechanisms are interwoven and essential for the sustenance of democracy and the rule of law in Nigeria. While significant strides have been made in establishing legal frameworks to protect these rights, numerous challenges remain in their practical implementation. Delays in justice, lack of independence in the judiciary and anti-corruption agencies, as well as insufficient political will to enforce accountability hinder the achievement of truly fair and transparent governance, judicial and administrative system.

To improve this situation, Nigeria needs to implement comprehensive reforms aimed at strengthening its legal and institutional structures. This includes enhancing the independence of the judiciary, increasing funding for underfunded oversight mechanisms, and improving access to legal aid for marginalised populations. Furthermore,

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13 A D Akinpelu and A O Agboola, 'Judicial Impartiality and Independence in Nigeria: A Reality or a Façade?' (2022) 4 Kampala International University Law Journal 2 <https://kiulj.kiu.ac.ug/article-view.php?i=78&t=judicial-impartiality-and-independence-in-nigeria-a-reality-or-a-fa%C3%A7ade#:~:text=Abstract%3A%20Abstract%20Judicial%20Independence%20and,any%20internal%20or%20external%20factors> accessed 17th July 2024.

14 O Onyema and L A Oti-Onyema, 'Limitations of the Legal Aid Council of Nigeria: Need for Action Plan' (2020) 1 International Journal of Law and Clinical Legal Education <https://www.nigerianjournalsonline.com/index.php/IJOLACLE/article/view/2176> accessed 25th July 2024.

a multi-sectoral approach should be adopted to support robust oversight functions and enforcement of the right to fair hearing.
Ultimately, the Nigerian government must demonstrate a stronger commitment to protecting individual rights and ensuring the proper functioning of oversight mechanisms.

Some of the Complaints received by the Commission on Rights to Fair Hearing are as follows

C/2024/CPR/127/JG
The Commission received a complaint dated 11th November, 2024 from XY of Kwaimawa village Dutse local government area, Jigawa state for an alleged infringement of right to fair hearing to his brother (yictim) who is presently remanded at Akure Correctional Centre.

C/2024/CPR/25/AKR
The Commission received a complaint from a man, Y of Akure, Ondo State on the 5th March, 2024 alleging grave injustice occasioned by unconscionable delay of his case at the Supreme Court of Nigeria. The matter was admitted for intervention.

C/NHRC/OYO/2024/004/CPR
The Commission received a complaint dated 28th February 2024 from Y who resides at, Bamiduro Gbekuba, Apata, Ibadan requesting for legal assistance. The matter was admitted for investigation and intervention.

C/2024/605-607/IMS
The Commission received a complaint from X dated 19th November, 2024 requesting for the Commission to monitor a court case involving her and another X widow in her community to make sure that justice prevailed in the case at Oboma Enyiogugu in Aboh Mbaise LGA, Imo State. The matter was admitted for investigation and intervention.

Chapter 6

The Protection of the Right to Private and Family Life in the Digital Age in Nigeria

By

Doose Shiishi-Gyer*

Introduction

In today's digital age, where personal information can be harvested, shared and exploited with unprecedented ease, the right to privacy has never been more vulnerable. Imagine a world where every click, every message, and every online interaction you have is meticulously tracked and stored, potentially to be used against you. This is not a dystopian future but a reality faced by millions of Nigerians every day as they engage with digital platforms. Statistics underscore the deep integration of technology into daily life in Nigeria. The pervasive use of social media platforms and the constant collection of personal data raise significant concerns regarding user privacy. [1]

The right to private and family life, protected under the 1999 Constitution of the Federal Republic of Nigeria, the African Charter on Human and Peoples' Rights, and the Universal Declaration of Human Rights (UDHR), is essential for a free and democratic society. However, the digital era presents complex challenges to this right, particularly due to the extensive data collection facilitated by digital platforms.[2] A key issue is whether users are fully aware that their data, beyond what they voluntarily provide, is being collected, stored, and potentially misused. Public opinion surveys indicate that while Nigerians are generally aware of online data theft risks, their concern is predominantly limited to financial data theft.[3] This narrow focus on financial data leaves other personal information vulnerable.

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1 See D Dokua Sasu, 'Number of Active Social Media Users in Nigeria 2017-2023' (*Statista*, 23 May 2023) <https://www.statista.com/statistics/1176096/number-of-social-media-users-nigeria/> accessed 25 July 2024 and 4.

2 L Ceci, 'WhatsApp: Monthly Usage in Selected Markets Q3 2023' (*Statista*, 5 April 2024) <https://www.statista.com/statistics/291540/mobile-internet-user-whatsapp/> accessed 25 July 2024.

3 Tiwalade Adelola, Ray Dawson, Firat Batmaz, 'Nigerians' Perceptions of Personal Data Protection and Privacy' (2025)

Despite the enactment of the Nigerian Data Protection Act (NDPA) in 2023, which aims to address these issues, there is still significant work to be done. Many Nigerians remain unaware of their data privacy rights and the broader risks associated with sharing personal information online. This paper argues that, despite the introduction of the NDPA and increasing public concern over financial data security, inadequate awareness and enforcement regarding broader privacy issues continue to leave Nigerians exposed in the digital age.

This paper employs doctrinal research to examine the effectiveness of the current legal framework in protecting privacy rights in Nigeria. It also proposes potential solutions to enhance the protection of private and family life in the digital age. It begins with necessary conceptual clarifications, setting the tone for the analysis. The paper then explores the international, regional, and domestic legal frameworks relevant to the protection of private and family life in Nigeria. Following this, it assesses the implementation of these frameworks and analyzes their effectiveness in safeguarding privacy rights. The paper concludes with recommendations for enhancing the protection of private and family life in the digital age in Nigeria.

Conceptual Clarifications

Privacy/Private Life

The concept of privacy defies a universal definition due to its multifaceted nature, shaped by societal norms, economic realities, and cultural contexts.[4] While the desire for privacy is universal, its specific manifestations vary across societies and cultures, influenced by factors such as scientific advancements and individual preferences.[5] The understanding of privacy is context-dependent, as the same information can be considered private in one situation but not in another.[6]

American law professor Alan Westin identified three levels that shape privacy norms: political, socio-cultural, and personal.[7] The individual also plays a central role, as privacy can be seen as a personal 'aura' that defines the boundaries between oneself and the outside

4 A Lukács, 'What is Privacy? The History and Definition of Privacy' [2016] SZTE Repos Publicat 256-265 https://core.ac.uk/reader/80769180 accessed 15 August 2024.

5 C Fried, 'Privacy' (1968) 77(3) The Yale Law Journal 486, 475 https://people.brandeis.edu/~teuber/Fried_on_Privacy.pdf accessed 24 July 2024.

6 H Nissenbaum, 'Protecting Privacy in an Information Age: The Problem of Privacy in Public' (1998) 17(5-6) Law and Philosophy Vol. 17, No. 5-6. (1998) 559, 581 https://www.jstor.org/stable/3505189 accessed 19 August 2024.

7 A F Westin, 'Social and Political Dimensions of Privacy' (2003) 59(2) Journal of Social Issues 431-434.

world.[8] These boundaries are fluid, varying across individuals and contexts.

The pursuit of a definitive privacy definition has spanned over 120 years, yet many proposed definitions fall short due to their narrow or overly broad scope. Solove's categorization of privacy into six categories provides a valuable framework for understanding the different facets of privacy: the right to be let alone, limited access to the self, secrecy, control of personal information, personhood and intimacy.[9]

Numerous scholars have contributed to the evolving understanding of privacy. Warren and Brandeis defined privacy as 'the right to be let alone.'[10] Gavison emphasized the connection between privacy and accessibility to others.[11] Posner, while avoiding a direct definition, acknowledged the importance of information withholding or concealment.[12] Westin and Fried focused on individual control over personal information.[13] Bloustein and Gerety linked privacy to personhood, individuality, and intimacy.[14]

Considering the multifaceted nature of privacy and the challenges in creating a definitive definition, a practical approach is to adopt a flexible and adaptable understanding. Máté Dániel Szabó's definition, emphasizing individual autonomy, offers a valuable starting point. [15] However, it's essential to acknowledge that privacy is a dynamic concept that evolves alongside societal, technological, and cultural changes.

Digital Age

The term 'digital age' refers to the current era characterized by the rapid proliferation of digital technology, including computers, the internet, and

8 A Lukács, 'What is Privacy? The History and Definition of Privacy' [2016] SZTE Repos Publicat 256-265 https://core.ac.uk/reader/80769180 accessed 15 August 2024.

9 D J Solove, 'Conceptualizing Privacy' (2002) 90 Cal. L. Rev 1087, 1094 <https://scholarship.law.gwu.edu/cgi/viewcontent.cgi?article=2086&context=faculty_publications> accessed 26 July 2024.

10 Warren, Brandeis, 'The Right to Privacy' (1890) 5(5) Harvard Law Review 193 https://groups.csail.mit.edu/mac/classes/6.805/articles/privacy/Privacy_brand_warr2.html accessed 26 July 2024.

11 R Gavison, 'Privacy and the Limits of Law' (1980) 89(3) The Yale Law Journal 421, 423 https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2060957 accessed 22 July 2024.

12 A Lukács, 'What is Privacy? The History and Definition of Privacy' [2016] SZTE Repos Publicat 256-265 https://core.ac.uk/reader/80769180 accessed 15 August 2024.

13 ibid.

14 E J Bloustein, *Individual Group Privacy* (1st edn, Routledge 2017) 43.

15 A Lukács, 'What is Privacy? The History and Definition of Privacy' [2016] SZTE Repos Publicat 256-265 https://core.ac.uk/reader/80769180 accessed 15 August 2024.

mobile devices, which have profoundly transformed how people communicate, access information, and interact with the world.[16] This era, often called the Information Age or the Digital Revolution, began in the late 20th century with the advent of personal computers and the internet and has since evolved to encompass a wide range of digital technologies that permeate nearly every aspect of modern life.[17]

The implications of the digital age are far-reaching, particularly concerning privacy and the protection of personal information. The ease with which data can be collected, stored, and analyzed has raised significant concerns about how personal information is used and who has access to it.[18] The digital age has challenged traditional notions of privacy, as individuals increasingly share personal details online, often without fully understanding the potential risks or the extent to which their data is being monitored or utilized.

Moreover, the digital age has led to the development of new legal and ethical issues, as existing frameworks struggle to keep pace with technological advancements. This has prompted the need for updated legal protections and the development of concepts like 'privacy by design,' where data protection is integrated into technology from its inception.

Understanding the digital age is crucial for examining how the right to private and family life is affected in this new context. As digital technologies continue to evolve, so too must the legal and regulatory frameworks that protect individuals' privacy rights.

Legal Frameworks on the Right to Private and Family Life

The right to private and family life is a fundamental human right that is recognized and protected under various international, regional, and domestic legal frameworks. At the international level, the UDHR[19] serves as a cornerstone for the protection of human rights globally. Article 12 of

16 P C Aloamaka, 'Data Protection and Privacy Challenges in Nigeria: Lessons From Other Jurisdictions,' (2023) 3(1) UCC Law Journal 281.

17 R T Adeleke, 'Personal Protection of Privacy in the Information Age' (2023) Library Philosophy and Practice (e-journal) 7871 <https://digitalcommons.unl.edu/libphilprac/7871> accessed 28 July 2024.

18 A Idris, 'Rights To Privacy In The Digital Age' (*Paradigm Initiative*, 24 November 2022) <https://paradigmhq.org/rights-to-privacy-in-the-digital-age/#:~:text=This%20article%20explores%20what%20the,%2C%20foreign%20powers%2C%20and%20terrorists.> accessed 28 July 2024.

19 OHCHR, 'The International Bill of Human Rights', Fact Sheet No.2 (Rev.1). Available on <https://www.ohchr.org/sites/default/files/Documents/Publications/FactSheet2Rev.1en.pdf> accessed 16 May 2024.

the UDHR explicitly guarantees the right to private and family life, stating that '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 or attacks.' This provision has been instrumental in shaping subsequent international treaties and conventions that safeguard these rights.

Building on the UDHR, the International Covenant on Civil and Political Rights (ICCPR) further enshrines the right to private and family life under Article 17.[20] The wording mirrors that of the UDHR, emphasizing the protection against arbitrary interference with privacy, family, home, or correspondence. The Covenant underscores the importance of dignity and the equal rights of all individuals as the foundation of freedom, justice, and peace.

The United Nations Convention on the Rights of the Child (CRC), which Nigeria ratified in 1991, provides specific protection for children's privacy and family life. Article 16 of the CRC asserts that no child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home, or correspondence. The Convention's emphasis on the protection of children's rights reflects a global commitment to safeguarding the most vulnerable members of society.[21]

In addition to these instruments, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) addresses discrimination that can impact private and family life. CEDAW emphasizes the importance of women's equal participation in all aspects of society, including family life. Article 13 of CEDAW specifically requires states to eliminate discrimination against women in areas such as family benefits, while Article 16 focuses on eliminating discrimination in marriage and family relations. This Convention highlights the challenges posed by patriarchal structures and traditional gender roles that can undermine women's enjoyment of their rights to privacy and family life.

Similarly, the Convention on the Protection of the Rights of Migrant Workers and Members of Their Families (CPMW) underlines the right of migrant workers and their families to privacy. Article 14 of the CPMW provides that no migrant worker or family member shall be subjected to

20 Equality and Human Rights Commission, 'Article 8: Respect for your private and family life' (Equality Human Rights, 24 June 2021) <https://www.equalityhumanrights.com/en/human-rights-act/article-8-respect-your-private-and-family-life> accessed 25 May 2024.

21 A Twum-Danso Imoh, 'Realizing Children's Rights in Africa: An Introduction in Afua Twum-Danso Imoh and Nicola Ansel (eds), *Children's Lives in an Era of Children's Rights: The Progress of the Convention on the Rights of the Child in Africa* (Routledge 2014) 1.

arbitrary or unlawful interference with their privacy, family, home, correspondence, or other communications.

At the regional level, the African Charter on Human and Peoples' Rights (ACHPR) plays a pivotal role in the protection of human rights across Africa. While the ACHPR does not explicitly mention the right to privacy, the African Commission on Human and Peoples' Rights has interpreted the right to respect for life, integrity, dignity, and liberty as encompassing the right to privacy.[22] Article 18 of the ACHPR explicitly protects the family as the natural unit and basis of society, mandating state protection for its physical health and morals.

The African Charter on the Rights and Welfare of the Child (ACRWC) further reinforces the protection of children's privacy and family life in Africa. Article 10 of the ACRWC mirrors the provisions of the CRC, ensuring that children are shielded from arbitrary or unlawful interference with their privacy, family, or correspondence.

Domestically, the 1999 Constitution of Nigeria enshrines the right to private and family life in Section 37. This provision guarantees the privacy of citizens, their homes, correspondence, telephone conversations, and telegraphic communications. However, the Constitution also allows for the limitation of this right under Section 45, which provides that the right to privacy may be restricted in the interest of defense, public safety, public order, public morality, public health, or for protecting the rights and freedoms of others.

Beyond the Constitution, various domestic laws further protect the right to privacy in Nigeria. The National Identity Management Commission (NIMC) Act of 2019 regulates the collection, storage, and use of biometric data, ensuring the protection of personal information within the National Identity Database. The Nigeria Data Protection Regulation (NDPR) of 2019, developed by the National Information Technology Development Agency (NITDA), also provides a legal framework for data protection and privacy.

In a significant development, the Nigeria Data Protection Act (NDPA) of 2023 was enacted to establish a comprehensive legal framework for the protection of personal data in Nigeria. The Act mandates that data processing must be lawful and consent-based, and it includes specific provisions for the protection of children's privacy. The Act also addresses the enforcement of data privacy rights, filling a critical gap in the existing legal framework.

The National Human Rights Commission (NHRC) Act of 2010 further bolsters the protection of human rights, including the right to private and

22 E O Ekhator, 'The Impact of the African Charter on Human and Peoples' Rights on Domestic Law: A Case study of Nigeria', (Core Apri 2013) <https://core.ac.uk/download/pdf/158350272.pdf> accessed 25 May 2024.

family life, as guaranteed under the 1999 Constitution. The NHRC is empowered to investigate and address violations of these rights, providing an essential mechanism for upholding privacy and family life in Nigeria.

Despite the existence of these legal frameworks, there are notable gaps in the protection of privacy and family life in Nigeria, particularly concerning data privacy in the digital age. As technology advances, the need for robust legal protections for personal data becomes increasingly urgent. Addressing these gaps is crucial to ensuring that the right to privacy and family life is fully realized in Nigeria.

Current Challenges in the Protection of the Right to Private and Family Life in the Digital Age in Nigeria

The protection of the right to private and family life in Nigeria faces significant challenges, particularly in the digital age. Despite the existence of legal frameworks like the Nigerian Data Protection Regulation (NDPR) and the Nigerian Data Protection Act (NDPA), effective enforcement remains a major obstacle. Recent case law, such as *Eneye v. Etisalat*[23] and *Incorporated Trustees of Paradigm Initiative for Information Technology (PIIT) & Sarah Solomon-Eseh v. National Identity Management Commission (NIMC)*[24], demonstrates the growing recognition of privacy rights in Nigeria. However, challenges such as limited enforcement, inadequate data security measures, and the lack of clear legal precedents continue to hinder the effective protection of these rights. This not only undermines individual privacy but also erodes public trust in the legal system.

While the NDPA represents progress, it has limitations. Its scope is primarily focused on electronic data, leaving traditional forms of personal data less regulated. This creates gaps in the legal framework, allowing certain types of data to be processed and shared without sufficient oversight. With Nigeria currently lagging behind in terms of digitalisation, as opposed to 90% of governments in the world that have since gone digital[25], a holistic approach encompassing all forms of personal data is essential for effective privacy protection.

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23 (2018) LPELR-46193.

24 Paradigm Initiative, 'PIN, Sarah Solomon-Eseh v. National Identity Management Commission, Attorney General of the Federation, [2019] https://paradigmhq.org/report/pin-sarah-solomon-eseh-v-national-identity-management-commission-attorney-general-of-the-federation/ accessed 25 May 2024.

25 D Tolu-Kolawole, 'FG to fully digitise civil service by 2025' (*Punch*, 20 December 2023) <https://punchng.com/fg-to-fully-digitise-civil-service-by-2025/> accessed 28 July 2024.

In the same vein, the NDPA's geographical scope and applicability are also constraints. The Act primarily focuses on electronic data and data processing activities within Nigeria. This poses challenges in a globalized context where data frequently crosses borders. Additionally, the absence of provisions protecting Nigerian citizens residing abroad weakens its effectiveness. The lack of clear guidelines for classifying "data controllers or processors of major importance" further contributes to uncertainty and hinders compliance efforts.

Public awareness of data privacy rights is another significant challenge. While Nigerians are generally aware of online data theft risks, their concerns often centre on financial data. The findings of an analysis of public opinion surveys on public understanding and knowledge of data protection and privacy in Nigeria showed that many trust financial institutions but lack awareness about the protection of other personal information.[26] Conversely, they did not trust the government to protect their data with any effective legislation or law enforcement.[27] In essence, the lack of education about data security and privacy measures can contribute to inadvertent disclosure of sensitive details and expose individuals to identity theft or fraud. This leaves the population vulnerable to the theft and misuse of non-financial data. Moreover, a pervasive distrust in the government's ability to protect data further complicates efforts to secure privacy.

Resistance to modern data storage methods in some institutions and organizations is another challenge.[28] This resistance often stems from a lack of trust in digital systems and a preference for traditional methods. However, embracing modern data storage solutions is crucial for improving data security and compliance.

The growing internet penetration across Nigeria and Africa, while expanding access, also increases the risks associated with insufficient data protection measures.[29] Southern and Northern Africa have higher internet penetration rates than Central and Eastern Africa, with Nigeria,

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26 T Adelola, R Dawson, F Batmaz, 'Nigerians' Perceptions of Personal Data Protection and Privacy' (2015) <https://www.semanticscholar.org/paper/Nigerians%27-Perceptions-of-Personal-Data-Protection-Adelola-Dawson/a6d943650b21b34b2daa636d12d5ba54c20c971c> accessed 25 July 2024.

27 ibid.

28 C P Nwarize, 'An investigation of factors influencing non-users' resistance to internet banking adoption in Nigeria' (2023) Cardiff Metropolitan University Thesis <https://doi.org/10.25401/cardiffmet.22332664.v1> accessed 19 July 2024 and J Abdulazeez Yaya and Ors, 'Challenges of Record Management in two Health Institutions in Lagos State, Nigeria' (2015) 2(12)

29 International Journal of Research in Humanities and Social Studies 1 <https://www.ijrhss.org/pdf/v2-i12/1.pdf> accessed 19 July 2024.

Egypt, and South Africa leading in absolute numbers of internet users.[30] Given the dynamic nature of technology and security measures and this rapid digital expansion, a continuous adaptation of the laws and measures to evolving technologies and practices is needed to align with global efforts for robust privacy protection.

Likewise, the absence of legal precedents regarding data breaches and privacy violations hinders their effective handling. As the legal framework for data protection evolves, the judiciary must play a proactive role in establishing clear precedents to guide future cases and strengthen privacy protection.

Addressing these challenges requires a concerted effort by the government, regulatory bodies, the judiciary, and civil society to ensure that privacy rights are effectively safeguarded in the digital age.

The Protection of the Right to Private and Family Life in the Digital Age in Nigeria

Supreme Court Justice Louis Brandeis aptly described privacy as 'the most comprehensive of rights and the right most valued by civilized men.' [31] In the digital age, protecting this fundamental right is crucial for ensuring a safe and secure online environment for Nigerians. While challenges exist as outlined in the previous section, significant opportunities also lie ahead in strengthening the legal framework and promoting responsible data practices.

Effective enforcement of existing regulations, coupled with a comprehensive data protection framework that encompasses all forms of personal data, are essential steps toward strengthening privacy protection. Nigeria's position in the globalized digital landscape necessitates international cooperation and the adoption of global best practices.[32] Additionally, promoting public awareness and education about data privacy rights is vital for empowering citizens to protect their personal information.

Encouraging the adoption of robust data security measures, fostering public-private partnerships, and investing in capacity building initiatives are key to mitigating the risks of data breaches and enhancing trust in digital services. Furthermore, regularly reviewing and updating the legal framework to align with evolving technologies and global trends is crucial for ensuring its effectiveness.

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30 S Galal, 'Social media penetration in Africa 2024, by region' (Statista, 13 March 2024) <https://www.statista.com/statistics/1190628/social-media-penetration-in-africa-by-region/> accessed 25 July 2024.

31 D J Solove, *Understanding Privacy* (1st edn, Harvard University Press 2009) 21.

32 S Galal, 'Social media penetration in Africa 2024, by region' (Statista, 13 March 2024) <https://www.statista.com/statistics/1190628/social-media-penetration-in-africa-by-region/> accessed 25 July 2024.

Similarly, building a robust framework for privacy protection in Nigeria requires a multi-stakeholder approach. Engaging civil society organizations (CSOs) is essential in raising awareness, advocating for policy reforms, and monitoring compliance with data protection laws. By fostering partnerships with CSOs, the government can leverage their expertise, reach, and credibility to promote data privacy and protect citizens' rights. This collaboration will strengthen the overall effectiveness of privacy protection efforts and ensure that the voices of civil society are heard and considered in policy development.

The establishment of clear legal precedents through judicial decisions and training initiatives will strengthen the judiciary's role in protecting privacy rights. By addressing these challenges, Nigeria can create a legal environment that fosters innovation, attracts responsible businesses, and solidifies its position as a global leader in responsible technology adoption.

A robust data privacy framework offers numerous benefits beyond individual rights protection. It fosters trust in digital services, encourages participation in the digital economy, attracts responsible businesses, and strengthens international cooperation. By investing in privacy protection, Nigeria can unlock the vast potential of the digital age while safeguarding its citizens' fundamental rights.

Recommendations

To effectively protect the right to private and family life in Nigeria, a concerted effort from various stakeholders is essential. First, the government must play a pivotal role by strengthening the capacity of regulatory bodies like the National Information Technology Development Agency (NITDA) and the Nigeria Data Protection Commission (NDPC) to enforce data protection laws effectively. Additionally, the government should review and update the Nigerian Data Protection Act (NDPA) to ensure it comprehensively addresses emerging challenges in the digital age. International collaboration and the adoption of global best practices are crucial for effective data protection in a globalized world.

The National Human Rights Commission (NHRC) can significantly contribute by actively monitoring compliance with data protection laws, providing legal assistance to individuals, and conducting training programs on data privacy issues. Legal practitioners can also play a crucial role by specializing in data privacy law, engaging in public education, and offering pro bono legal services to those in need.

Civil society organizations (CSOs) can make a substantial impact by advocating for policy reforms, raising awareness, and providing legal support to individuals whose privacy rights have been violated. Government collaboration with CSOs can strengthen the overall

effectiveness of privacy protection efforts and ensure that civil society voices are heard and considered in policy development.

Businesses and corporations have a responsibility to adopt robust data privacy policies and practices, conduct regular data security audits, and appoint data protection officers. Educational institutions can integrate data privacy education into their curricula to equip students with the knowledge and skills to protect their privacy. Additionally, technology developers should prioritize privacy by design principles when designing products and services, minimizing the collection and use of personal data.

Conclusion

In conclusion, the protection of the right to private and family life in Nigeria's digital age is a complex but crucial task. The rapid advancement of technology has significantly challenged traditional notions of privacy, making it imperative for Nigeria to adapt its legal frameworks and enforcement mechanisms to this new reality. Despite the enactment of the Nigerian Data Protection Act (NDPA) and other relevant laws, significant gaps remain, particularly in enforcement, public awareness, and the regulation of non-electronic data.

The digital age presents both challenges and opportunities for safeguarding privacy rights. On one hand, the pervasive collection and misuse of personal data pose serious risks to individuals' privacy. On the other hand, the global nature of digital interactions provides an opportunity for Nigeria to adopt and implement best practices from around the world, enhancing the protection of personal data.

Addressing the challenges identified in this paper—such as limited enforcement, inadequate public awareness, and the need for comprehensive legal protections—requires a concerted effort from the government, regulatory bodies, civil society, and the judiciary. Strengthening the legal framework, promoting responsible data practices, and fostering public-private partnerships are essential steps toward ensuring that the right to private and family life is fully protected in Nigeria.

Moreover, continuous education and awareness-raising among the public are critical to empowering citizens to protect their personal information and exercise their privacy rights effectively. As Nigeria navigates the complexities of the digital age, it must remain vigilant and proactive in adapting its legal and regulatory frameworks to meet the evolving challenges of privacy protection. Only through such efforts can the right to private and family life be preserved and respected in an increasingly digital world.

Some of the Complaints received by the Commission on Right to Private and Family Life are as follows:

C/2024/CPR/281/ENUGU
The Commission received a complaint dated 2nd October, 2024 from X. She complained that Y, who is a co-tenant with her, has been threatening her life and also invading her privacy. On receiving the complaint, X was invited for an interview. During the interview, X could not state how Y was threatening her life or invading her privacy, rather she kept accusing her co-tenant of using charms to attack her. The matter was dismissed due to lack of facts. This incident happened at Achara Layout in Enugu South L.G.A of Enugu State.

C/2024/ESCR/341/ENUGU
The Commission received a complaint dated 20th November, 2024 from Y alleging that his wife does not allow him enjoy his matrimonial life, as she always abused, threatened and assaulted him at Amorji Nike in Enugu East L.G.A. of Enugu State.

C/2024/WGR/116/AKR
The Commission received a complaint on September 9, 2024, from Mr. Y, a resident of G 32, Ireakari 2, off Orita Obele, Akure, Ondo State, regarding a child custody dispute with the mother of his son, Ms. X.
According to Y, he and X began their relationship in 2004 and lived together as husband and wife until 2010, during which they had a son. Since their separation, the child has been in the custody of his mother. However, during a recent holiday visit, Y observed a decline in his son's academic performance. Concerned about the child's well-being, he insisted that the boy remain with him, but X opposed the decision, and all efforts to reach a mutual agreement failed.
Additionally, Y reported receiving a threatening call from X’s younger brother, who warned that if the issue was not resolved, he would falsely accuse Y of kidnapping his own son.
Y is now seeking the Commission's intervention to ensure a resolution that prioritizes the best interests of the child.

C/24/V.G/366-369/LAG
The Commission received a complaint dated 13th June 2024 from Y against X alleging that X always threatened him via phone calls and came severally to his workplace to harass him. Y sought the intervention of the Commission. The matter was admitted for investigation and intervention.

C/24/CPR/376/LAG, C/2024/413/2975/EBS
The Commission received a complaint dated 20th June 2024 from X against officers of the Nigeria Police Force at the State SCIID, Panti, alleging illegal surveillance, harassment and bias by the Police. The matter was admitted for investigation and intervention.

C/2024/WC/177/ANS
The Commission received a complaint dated 6th June 2024 from Y alleging that, having inherited part of his late father's compound in Awka, his uncle and cousin who lived in the same compound frequently physically assaulted him and his family members. He also said that they maliciously threatened the lives of his family members on 3rd June, 2024 by telling them that they were going to waste them if his family did not leave the compound. These actions of the uncle's family toward them made it difficult for them to cope.

C/2024/CPR/90/ANS
The Commission received a complaint dated 12th April 2024 from X of Abagana in Njikoka LGA, alleging that she had been under some threat by some persons after she recovered from a ghastly accident. She also alleged that a victim of the same incident and an eyewitness is fueling the threats. She stated that her life and the entire family have been under serious threat as these individuals reported her to a deity demanding her appearance. X stated that this has made it difficult for her to live peacefully in the community.

C/2024/CPR/102/ANS
The Commission received a complaint dated 23rd April 2024 from Y, a farmer and a businessman, alleging that his younger brother had been hostile to him and the rest of his family members for the past five years. He added that, on Friday, 19 April 2024, the younger brother aggressively attacked his wife and beat her up without any justification even in his absence at their family house at Umuaba village, Ebenebe, Awka North LGA, Anambra state. He further said that every effort to ensure that peace reigns in the family failed and this makes it difficult for his family members to live peacefully as a family in the compound.

C/2024/CPR/103/ANS
The Commission received a complaint dated 23rd April 2024 from X, alleging that their caretaker connived with the landlord and unlawfully served her with a month's eviction notice in Awka of Anambra state. X said that they began to harass and intimidate her when she stopped allowing other tenants to fetch the water that she solely pumped by paying for the electricity bills. X claimed that their actions prevented her from living peacefully in the apartment.

Chapter 7

FREEDOM OF THOUGHT, CONSCIENCE, AND RELIGION IN NIGERIA

By

Damian Ugwu*

Introduction

The right to freedom of thought, conscience and religion is a cornerstone of human dignity. It grants individuals the liberty to explore their inner world, forming personal convictions and beliefs, religious or otherwise. This right extends outward, protecting the freedom to practice a chosen faith, follow its tenets, and engage in religious activities – individually or collectively, in private or public spaces. It even safeguards the right to not hold any religious beliefs at all. This freedom allows individuals to live authentically according to their deepest convictions, fostering a diverse and vibrant society. However, this right is not absolute. Limitations can be imposed, but only by law and only when necessary to protect public safety, order, or the rights of others.

Nigeria enshrines the right to freedom of thought, conscience, and religion in its 1999 Constitution (Section 38)[1]. This right guarantees individuals the liberty to hold personal convictions, practice their faith, and convert to new religions. The right to freedom of thought, conscience and religion also implies that every person has the unconditional right to have and adopt a religion of his or her choice. This freedom includes the right to change one's religion. Every person has the right not to be coerced or otherwise compelled to maintain, adopt, or change a religion. Despite these constitutional provisions many individuals mostly from minority groups and non- religious activists continue to be victims of human rights violations despite Nigeria's obligations under international human rights law to respect and protect the right to freedom of conscience and religion. Many people also face violations of the right to liberty and security of the person, the right not to be discriminated against, and the right to legal remedy. This paper report lays out my concerns relating to individual rights in Nigeria and ends with a series of concrete recommendations to the Nigerian authorities to ensure the protection of their rights. It also explore the legal framework, challenges, and best practices in safeguarding these rights in Nigeria, with a focus

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1 Constitution of the Federal Republic of Nigeria (1999).

on the intersection of international human rights law, constitutional provisions, and domestic legislation.

Legal Framework

International

The Universal Declaration of Human Rights (UDHR)[2] and the International Covenant on Civil and Political Rights (ICCPR) [3]form the bedrock of international human rights law. These landmark agreements establish a universal standard for the treatment of all individuals, regardless of their background. The United Nations Human Rights Committee described religion or belief as "theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief"[4] This simply means that the right to religion protects anyone's convictions, of both a religious and non-religious nature (such as atheism and agnosticism). Freedom of religion includes not just the right to hold a belief, but also the freedom to manifest it, the freedom to adopt, change or renounce it, and the freedom from coercion with regard to one's beliefs. A person is not obliged to disclose their conviction: the freedom of religion also includes the right to keep this information private.[5]

This paper will delve into the fundamental principles enshrined in these documents, with a particular focus on Articles 1 and 2 of the UDHR and Article 18 of both the UDHR and ICCPR.

Articles 1 and 2 of the UDHR lay the foundation for all human rights. Article 1 proclaims the inherent dignity and equality of all human beings. It emphasizes that everyone is born free and possesses inherent rights, regardless of factors like race, religion, or nationality. This core principle establishes the notion that all people hold equal value and deserve to be treated with respect.

Building upon this foundation, Article 2 guarantees everyone the rights and freedoms outlined in the UDHR, without discrimination. This universality is paramount, ensuring that no group is excluded from the protections afforded by the declaration. The article further elaborates on specific grounds for non-discrimination, including race, sex, religion, and social origin. This comprehensive list serves as a safeguard against prejudice and ensures that everyone has the opportunity to enjoy their fundamental rights.

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2 Universal Declaration of Human Rights UDHR,< https://www.un.org/en/about-us/universal-declaration-of-human-rights>

3 International Covenant on Civil and Political Rights (ICCPR), <https://www.refworld.org/legal/agreements/unga/1966/en/17703>

4 CCPR General Comment No. 22: Article 18 (Freedom of Thought, Conscience or Religion), <https://www.refworld.org/legal/general/hrc/1993/en/13375>

5 <https://www.cilvektiesibugids.lv/en/rights/freedom-of-religion-and-belief>

The concept of non-discrimination extends beyond the UDHR and finds further reinforcement in Article 26 of the ICCPR. This article compels State Parties, including Nigeria, to actively prohibit discrimination and guarantee equal protection under the law for all individuals. This legal obligation strengthens the commitment to a society where everyone has the opportunity to thrive, free from prejudice.

Article 27 of the ICCPR also provide specific protection for minority groups. It recognizes the right of ethnic, religious, and linguistic minorities to express their cultural identity, practice their religion, and use their native language. This provision ensures g that the rights enshrined in the ICCPR are not merely theoretical but translate into tangible protections for vulnerable communities.

One specific right that deserves particular attention is the freedom of thought, conscience, and religion. This right is enshrined in Article 18 of both the UDHR and ICCPR. It encompasses the freedom to hold any belief, whether theistic, non-theistic, or atheistic. This includes the right to choose or change one's religion, practice it in public or private, and express it through worship, observance, and teaching.

This right allows individuals to explore their own spirituality and develop their personal beliefs without coercion. This fosters a climate of tolerance and respect for diverse viewpoints, which is essential for a peaceful and pluralistic society.

However, Article 18(3) acknowledges that limitations on the manifestation of religion or belief may be necessary in certain circumstances. These limitations can only be imposed by law and must be demonstrably necessary to protect public safety, order, health, morals, or the fundamental rights of others. This caveat ensures a balance between individual freedom and the need to maintain a functioning society.

Article 18 of the International Covenant on Civil and Political Rights(ICCPR) is core for understanding the commitments of member states to the rights to freedom of thought , conscience and religion and remains one of the few articles in the ICCPR that cannot be derogated from, even in times of emergency, emphasizing the critical nature of the right to freedom of thought, conscience, and religion, which is considered essential for a free and just society.

> It states: *“(1) 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.[6]

(2) No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.[7] *(3) Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others*[8]*. (4) The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions."*[9]

Article 1 of UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief states: "*Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have a religion or whatever 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*".[10]

The Vienna Declaration and Programme of Action (1993) reinforces this commitment by referring to "cultural and religious backgrounds" as follows: "All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis. While the significance of national and regional particularities and various historical, cultural and religious backgrounds

6 Article 18(1) International Covenant on Civil and Political Rights. UN General Assembly resolution 2200A (XXI).

7 Article 18(2) International Covenant on Civil and Political Rights. UN General Assembly resolution 2200A (XXI).

8 Article 18(3) International Covenant on Civil and Political Rights. UN General Assembly resolution 2200A (XXI).

9 Article 18(4) International Covenant on Civil and Political Rights. UN General Assembly resolution 2200A (XXI).

10 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, UN General Assembly resolution 36/55 of 25 November 1981. <https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-elimination-all-forms-intolerance-and-discrimination>

must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms."[11]

Domestic Legal Framework

The 1999 Nigerian Constitution, as amended, guarantees freedom of thought, conscience, and religion in Section 38(1), stating that "every person shall be entitled to freedom of thought, conscience and religion, including freedom to change his religion or belief."[12] The Constitution also prohibits discrimination based on religion or belief. Nigeria has also ratified international treaties, such as the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples' Rights (ACHPR), which reinforce these protections**.**

Nigeria has a legal framework that aims to uphold the fundamental right to freedom of thought, conscience, and religion. This right finds its primary expression in the Constitution of the Federal Republic of Nigeria (1999), specifically Section 38(1). This section guarantees every person the right to freely hold any beliefs, change their religion if they choose, and manifest their faith in worship, teaching, practice, and observance. This right can be exercised either individually or collectively, in public or private spaces.

However, the right to freedom of religion is not absolute. The Nigerian Constitution acknowledges that this right, like all others, can be subject to reasonable limitations. These limitations are only permissible if prescribed by law and deemed necessary to safeguard public safety, order, health, morals, or the fundamental rights of others (Section 38(1)). There are several key legal precedents to this effect:

- The case of *Medical and Dental Practitioners Disciplinary Tribunal v Okonkwo* (2002) a doctor refused a blood transfusion on religious grounds. The court upheld the doctor's right, emphasizing that Section 38 protects individuals from being forced to act against their beliefs. This case exemplifies how the right to freedom of religion protects individuals from coercion. [13]
- In another controversial case, the appeal court sitting in Ilorin in September 2019 affirmed the judgment of the Kwara state high court and ruled that state government remains the owner of schools and

11 Vienna Declaration and Programme of Action, the World Conference on Human Rights in Vienna, June 1993, <https://www.ohchr.org/en/instruments-mechanisms/instruments/vienna-declaration-and-programme-action .

12 Constitution of the Federal Republic of Nigeria 1999, <http://www.nigeria-law.org/Constitution of The Federal Republic of Nigeria.htm>

13 *Medical and Dental Practitioners Disciplinary Tribunal v Okonkwo* (2002) AHRLR 159 (NgSC 2001)

the refusal of the schools to allow the use of hijab is discriminatory and not in line with the provisions of the constitution. The Kwara State hijab controversy erupted when Muslim students were denied entry to schools for wearing the hijab, leading to protests and counter-protests from both Christian and Muslim communities. The state government intervened by closing affected schools to prevent further clashes. After legal battles, the Kwara State Appeal Court ruled in favor of Muslim students, affirming the government's ownership of schools and declaring the hijab ban discriminatory. Despite this ruling, tensions persisted, with some schools resisting the implementation of the decision, leading to continued disruptions in education. This case sheds light on the right to manifest one's religion in educational and the rights of institutions with a defined religious character.[14]

- **Yahaya Sharif Aminu Case**, involving a death sentence for blasphemy under Sharia law, has sparked intense debate about the interplay between religious law and secular law in Nigeria. On August 10, 2020, an Upper Sharia Court sitting in Hausawa, Kano State of Nigeria convicted a gospel singer of blasphemy and sentenced him to death. The singer had posted audio in a WhatsApp group with statements accusing prophet Muhammad of bringing “an unforgivable sin to the world”. The Court accepted that the individual had posted the statements in error, but held that the blasphemous statements could not be excused regardless of his plea citing mistake, and that as he was “of sane mind,” he was guilty of the offence. On appeal, the High Court of Kano State quashed Aminu’s death sentence on the grounds of irregularities in the Sharia Court’s trial and ordered that Aminu be tried afresh by the same court. The case is currently before the Supreme Court after the individual’s appeal failed to result in a discharge of the case against him and the Court found that the Sharia Law under which he was convicted was constitutional.[15] The case demonstrates the delicate balance between religious freedom and other fundamental rights. [16]

Beyond the Constitution and court rulings, Nigeria's legal framework for religious freedom is also influenced by its membership in international human rights conventions. Key among these are the Universal

14 How hijab crisis interrupted education in Kwara,<https://www.thecable.ng/how-hijab-crisis-interrupted-education-in-kwara/>

15 <https://globalfreedomofexpression.columbia.edu/cases/commissioner-of-police-v-yahaya-sharif-aminu/>

16 Commissioner of Police v. Yahaya Sharif-Aminu, https://globalfreedomofexpression.columbia.edu/cases/commissioner-of-police-v-yahaya-sharif-aminu/

Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) and The African Commission on Human And Peoples Rights (ACHPR). These international instruments guarantee the right to freedom of thought, conscience, and religion, mirroring the protections enshrined in Section 38 of the Nigerian Constitution.

Nigerian Religious Landscape: Secularism vs. Religion:
Nigeria's religious landscape is characterized by diversity, with Islam and Christianity being the dominant faiths, each with nearly equal adherents. However, a significant population identifies with indigenous religions and other minority faiths. The role of religion in public life is contentious, as the 1999 Constitution does not explicitly proclaim Nigeria a secular state. Instead, it prohibits the adoption of any religion as a state religion and guarantees freedom of thought, conscience, and religion, as well as protection from discrimination based on religion.

Despite this, the Constitution provides facilities for religious life and establishes Sharia Courts of Appeal, creating a tension between secular principles and religious influence. This tension is evident in the socio-political sphere, where religious leaders wield significant influence despite the government's commitment to secularism. The government's commitment to secular principles is often challenged by the significant influence of religious leaders in politics and society. For instance, the government allocates substantial funds for Christian and Muslim pilgrimages, while minority religious groups and non-religious individuals face discrimination and persecution. [17]

In practice, the prohibition on adopting a state religion is often overlooked, with Islam being regarded as the de facto state religion in many northern, Muslim-majority states. Politicians frequently invoke religion to justify their stances on legislative proposals and allocate public funds. Examples include Governor Udom Emmanuel's commissioning of an 8,500-seat Christian worship center built with public funds in Akwa Ibom state in 2018[18], and Governors Orji Uzor Kalu and Nyesom Wike declared Abia and Rivers states as Christian states during their tenure as Governors. [19]

17 ANALYSIS: Should the Nigerian government continue to subsidize religious pilgrimages? <https://solacebase.com/analysis-should-the-nigerian-government-continue-to-subsidise-religious-pilgrimages/>

18 Governor Emmanuel Udom Using Taxpayer's Money To Build Exotic Church By Abiodun Sanusi: <https://saharareporters.com/2019/07/24/governor-emmanuel-udom-using-taxpayer%E2%80%99s-money-build-exotic-church-abiodun-sanusi>

19 Governor Emmanuel Udom Using Taxpayer's Money To Build Exotic Church By Abiodun Sanusi: <https://saharareporters.com/2019/07/24/governor-emmanuel-udom-using-taxpayer%E2%80%99s-money-build-exotic-church-abiodun-sanusi>

Challenges Facing Religious Freedom in Nigeria

Despite its international obligations and constitutional framework, Nigeria remain one of only 13 countries where blasphemy or apostasy remains punishable by death.[20] According to Humanist International, non-religious practices are so severely persecuted by state and non-state actors it is not possible to be openly non-religious and the severity of persecution also makes it very difficult to calculate what proportion of the population is non-religious[21]

In 2022, Humanist International listed several concerns about Nigeria's violation of the rights to Freedom of Thought, Conscience, and Religion.

These include:

- Blasphemy' or criticism of religion is outlawed and punishable by death' [22]
- 'Apostasy' or conversion from a specific religion is outlawed and punishable by death'[23]
- Expression of core atheism or humanist principles on democracy, freedom or human rights is severely restricted'
- The non-religious are persecuted socially or there are prohibitive social taboos against atheism, humanism or secularism'
- State legislation is partly derived from religious law or by religious authorities.[24]

Experience has shown that upholding religious freedom in Nigeria in practice has been problematic due to several factors:

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20 There Are 13 Countries Where Atheism Is Punishable by Death, <https://www.theatlantic.com/international/archive/2013/12/13-countries-where-atheism-punishable-death/355961/>

21 Freedom Of Belief For The Non-Religious In Nigeria, Humanist International, UK, chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://humanists.uk/wp-content/uploads/2023-04-17-LN-FoRB-for-the-non-religious-in-Nigeria-for-APPHG-1.pdf

22 Blasphemy is prohibited under section 204 of the nationwide Criminal Code. Under the heading 'Insult to religion', it states: 'Any person who does an act which any class of persons consider as a public insult on their religion, with the intention that they should consider the act such an insult, and any person who does an unlawful act with the knowledge that any class of persons will consider it such an insult, is guilty of a misdemeanor, and is liable to imprisonment for two years.'

23 Sections 275-279 of the constitution allow constituent states to establish sharia courts on civil matters. Within several Nigerian states, abiding by sharia law is mandatory, and sentences may be given for apostasy and blasphemy.

24 While Nigeria's constitution prohibits constituent states from adopting a state religion, this has been overlooked in practice. For instance, in many of Nigeria's northern, Muslim-majority states, Islam is often regarded as the de facto state religion

Political and Legal Challenges

The implementation of Sharia law in some northern states, as well as the strict enforcement of blasphemy laws, both under Sharia and criminal codes, has led to concerns about the rights of religious minorities and has resulted in persecution and even death for individuals accused of insulting religious figures. Government inaction or alleged complicity in religious violence has exacerbated tensions and created a climate of impunity.

Religious Conflicts: Interfaith tensions and violence have unfortunately marred Nigeria's history. Nigeria has grappled with significant religious conflicts, primarily between Christians and Muslims. Interfaith tensions are often exacerbated by competition for resources, political power, and cultural dominance. Violence has erupted in various regions, including the Middle Belt, where clashes over land and religious identity have led to numerous casualties. The Kaduna riots of 2002[25] and the Boko Haram insurgency,[26] though complex, have religious dimensions.

Discrimination and Human Rights Violations: Discrimination based on religion, particularly against minority faiths, can still occur. For instance, the US State Department 2023 Report on International Religious Freedom listed several incidents that amount to discrimination and attacks on religious freedom in Nigeria.[27] These incidents include: The resurgence of insecurity and killings across the country by both criminal gangs and terrorist organizations attacking local communities, particularly Christian communities in the north, leading to a climate of fear and displacement of populations, and the failure of government in many cases to protect citizens against the attacks.

Other incidents that amount to human rights violations against religious minorities include:

- The military and police attacked members of the government-proscribed Islamic Movement in Nigeria (IMN) during an Ashura procession in Abuja and Kaduna with several reported case of killings and injuries.[28]

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25 See The Truth behind the Miss World riots, Guardian Newspaper. <https://www.theguardian.com/world/2002/nov/30/jamesastil>l

26 Boko Haram: Origin, Challenge and Response. chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.files.ethz.ch/isn/184795/5cf0ebc94fb36d66309681cda24664f9.pdf

27 2023 Report on International Religious Freedom: Nigeria. <https://www.state.gov/reports/2023-report-on-international-religious-freedom/nigeria/>

28 Zaria Massacre: Shiites Demand Justice on 8th Anniversary, Calls for Prosecution of Former President Buhari, Two Others <https://observatoryng.org/shites/>

- The continued imprisonment of Humanist Association of Nigeria President and former Muslim Mubarak Bala who is serving a 24-year prison sentence for his conviction on charges that he had insulted Islam and Muslims with the intent to cause a breach of public peace.[29]
- The detention and trial of Rhoda Jatau, a Christian, who spent 18 months in detention for blasphemy. Mrs. Rhoda Ya'u, 45 a staff of the Primary Healthcare Board, Warji in Bauchi state was arrested on May 20 on allegations of blasphemy after she forwarded a video on WhatsApp which was considered blasphemous. It was alleged that she forwarded a video to a WhatsApp group of her workplace, wherein a former Ghanaian Muslim was condemning the brutal lynching of a Christian college student – Deborah Emmanuel on May 12 in Sokoto State. [30]
- The detention of Adegbola Abdulazeez, an Isese (Yoruba traditional religion) priest and activist based in Oyo State, for insulting the emir and other Muslim leaders in Kwara State.[31]
- The report that Christians in northern states were unable to build churches or other Christian infrastructure because local officials did not issue construction permits. The Archbishop of Kaduna, Matthew Man-oso Ndagoso was quoted as saying: "For over 60 years, no single certificate of occupancy has been given officially to any Christian community to build a Church, except in the early 90s when one governor who was a Catholic – a military governor – gave a certificate of occupancy. So, in this part of our country, Christians aren't free to practice their faith as the Constitution demands, because if I am not free to build a church, if I am not free to get land, you cannot tell me that I am free,"[32].

Conclusion

Nigeria's constitutional guarantee of freedom of thought, conscience, and religion is a commendable step towards fostering a pluralistic society. While the legal framework offers a strong foundation, its implementation remains a challenge. The paper has demonstrated that, despite constitutional protections, religious intolerance, discrimination, and violence persist in various forms. These issues are exacerbated by

29 < https://observatoryng.org/mubarak-bala/>

30 Bauchi Government Set to Arraign Civil Servant For Blasphemy, <https://observatoryng.org/rhoda-yau-jatau/>

31 Kwara: Popular Isese Activist, Talolorun, Remanded In Prison For Defaming Emir Of Ilorin, Others , Punch Newspaper, <https://punchng.com/kwara-popular-isese-activist-talolorun-remanded-in-prison-for-defaming-emir-of-ilorin-0thers/>

32 <https://cruxnow.com/church-in-africa/2023/03/christians-in-northern-nigeria-living-under-bondage-says-archbishop>

factors such as socioeconomic inequalities, political instability, and weak enforcement of laws.

It is imperative to acknowledge that the exercise of these rights is not absolute, and reasonable restrictions can be imposed in the interest of public safety, order, health, or morals. However, it is equally important to ensure that these limitations are narrowly tailored and do not disproportionately infringe upon fundamental freedoms.

To effectively safeguard these rights, several initiatives and approaches is necessary. This includes strengthening law enforcement capacity to prevent and prosecute religious-based violence, promoting interfaith dialogue and understanding, and implementing comprehensive education programs to foster tolerance and respect for diversity. Additionally, policymakers must prioritize socioeconomic development to address underlying grievances and create a more inclusive society.

Recommendation

To improve the rights to Freedom of Thought, Conscience, and Religion in Nigeria, it is essential to undertake comprehensive legal reforms. This includes explicitly proclaiming Nigeria a secular state in the Constitution, thereby establishing a clear foundation for religious freedom. Additionally, laws that discriminate against minority religions or non-religious individuals including Conversion and Blasphemy Laws must be repealed or amended, and existing laws protecting freedom of thought, conscience, and religion must be strengthened. The government should ensure that Mubarak Balla and others who are currently imprisoned or prosecuted because of their fate or religious belief are immediately and unconditionally released and all charges against them dropped

Education and awareness are crucial in promoting a culture of tolerance and understanding. Inclusive religious education and interfaith dialogue should be integrated into school curricula to foster mutual respect and empathy from an early age. Public awareness campaigns can also be organized to promote the importance of religious freedom and tolerance. Furthermore, law enforcement and judiciary officials must be trained on religious freedom and tolerance to ensure they are equipped to protect these rights.

The protection of minority rights is paramount. A special task force should be established to investigate and prosecute cases of religious persecution, and support and protection should be provided to victims of religious violence. Ensuring equal access to public services and opportunities for all, regardless of religion, is also vital.

Interfaith dialogue and cooperation are essential in promoting peaceful coexistence. A national interfaith council should be established to bring together religious leaders and communities to promote dialogue

and cooperation. Collaborative social projects can also be initiated to foster mutual understanding and respect.

Government neutrality is critical in maintaining religious freedom. The government must avoid favoritism or bias towards any particular religion and allocate public funds equally for all religions, or not at all. Government officials must also refrain from using religion to justify policies or decisions.

Accountability and monitoring are necessary to ensure the protection of religious freedom. A national human rights commission should be established to monitor and report on religious freedom, and regular surveys and research should be conducted to assess the state of religious freedom. Perpetrators of religious violence and discrimination must be held accountable for their actions.

Finally, international cooperation can play a significant role in promoting religious freedom in Nigeria. Nigeria should ratify and implement international human rights treaties related to freedom of thought, conscience, and religion, and collaborate with international organizations to promote best practices in religious freedom. Sharing experiences and learning from other countries can also help identify effective strategies for promoting religious tolerance and coexistence

Some of the Complaint received by the Commission on Freedom of Thought, Conscience and Religion are as follows:

C/2024/CPR/372/ENUGU

The Commission received a complaint dated 18th December 2024 from XY on behalf of an indigenous Christian Association against certain members of the Ogor/Affa Community alleging violation of their freedom of thought, Conscience, and religion against a member of the Christian Association. XY stated that the Community seizes their members' property thereby forcing them to join groups and imposing unwarranted levies/penalties such as paying a penalty fee of N5,000.00 for not attending Ogor Catholic Women's Association August meetings, burial levies of any person that dies in the community whether related or not. XY further stated that their member does not reside in the community but they do find ways to harass, intimidate, and instill fear in them or any of their family members to deter them from the right to choose meetings and associations to belong to at Affa in Udi L.G.A. Enugu State. XY copied relevant authorities, and stakeholders including the Commission for this letter of notice. The Commission called XY for this to know how the Commission can come in. XY are yet to respond to the phone call invitation.

C/2024/CPR/004/ANS
The commission received a complaint dated 9th January 2024 from X alleging that Y her father has deprived her from getting married to the person she desires. She alleged that every effort to convince him to allow her to get married to her fiancé was futile. The matter was admitted for investigation and intervention.

C/2024/CPR/034/ANS
The Commission received a complaint dated 6th February 2024 from Y alleging that XY his family has been ostracized in their hometown Ogbakuba in Ogbaru LGA. Y alleged that his brother was the Youth Chairman of the village for three years and his tenure should expire after five years but was forcefully ejected from the office on 3rd January 2024 by some group of men including Y the President General of the town for their selfish interests and when his brother revolted he was ostracized from the village with the family including their mother who is a widow of 82 years old. He wants the Commission to intervene. The matter was admitted for investigation and intervention.

C/2024/WC/085/OS
The Commission received a Complaint dated 22nd January, 2024 from X, who resides at No. 8 Agowande Street, Igbona Area, Osogbo, Osun State, alleging Y of abusing her mentally by holding on to her personal belongings and her phone.

Chapter 8

THE PROTECTION OF THE RIGHT TO PEACEFUL ASSEMBLY AND ASSOCIATION IN THE AGE OF THE INTERNET

By

Teresa Unuodion-Odijie*

Introduction

In an increasingly digital world, the rights to peaceful assembly and association are undergoing rapid transformation. The rise of the internet and new technologies has redefined the ways individuals mobilize, express dissent, and form associations. These developments have profound implications for the realization and protection of these rights, both online and offline.

This chapter explores how international human rights law frameworks, at both the universal and regional levels, address the exercise of the rights to peaceful assembly and association in the digital age. It critically examines whether current legal instruments and mechanisms are adequately equipped to safeguard these freedoms when exercised in digital contexts.[1]

While employing the current framework to the enjoyment of these rights, International Human Rights Law requires adaptation in order to protect, respect and fulfill these rights. The ethical use of the internet has become a necessary precondition for exercising human rights, online and offline, particularly the rights to freedom of association and assembly. When considering challenges and opportunities related to freedom of assembly and association online, we must also keep in mind that access to the internet is still out of reach for around half of the world's population[2].

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1 A Marta, 'New Technologies And The Right To Freedom Of Peaceful Assembly And Association' (PhD thesis, European University Institute 2020) <https://hdl.handle.net/1814/67031> accessed 22 July 2024.

2 APC (2019), 'The rights to freedom of peaceful assembly and of association in the digital age: Submission to the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association by the Association for Progressive Communications'

We are encouraged to take on an intersectional approach when considering challenges affecting the full realization of the freedom of assembly and association in the digital age[3].

While restrictions on the rights to peaceful assembly and association in physical spaces are, in many jurisdictions, relatively well defined, though not always respected, there remains a lack of common understanding of protections and permissible restrictions in online spaces. The digital sphere presents new challenges for interpretation, enforcement, and accountability, often outpacing the development of legal norms and safeguards.

As a result, states and internet intermediaries place arbitrary and excessive limitations on the exercise of freedom of association and assembly in online spaces. Reporters and human rights advocates have increasingly reaffirmed that the rights to freedom of association and assembly must be fully protected in online spaces by defining clear standards and permissible limitations consistent with international human rights law and best practices. This approach they argue would be immensely valuable for safeguarding these rights in digital spaces.
It is increasingly difficult to distinguish between the online and offline dimensions of freedom of association and assembly, both because digital technologies are more integrated into people's lives, and because states are deploying digital technologies for a range of governmental functions that impact on these freedoms.

The right to freedom of assembly falls into the category of civil and political rights, as a 'political right'.[4] The freedom of peaceful assembly is also a right which may be limited under certain circumstances and it is a right usually exercised collectively. It is considered by scholars,[5] the European Court of Human Rights, many human rights advocates and international organizations, as one of the foundations of a democratic society, just as the closely related right to freedom of expression.

In this chapter, the protection of the Right to peaceful assembly and association in the age of the internet will be examined. The definition of these rights in their online manifestations; the nature of the internet and social media as a new space in which these fundamental rights are exercised, the regulation of contents, the private enforcement of

3 ITU G Bel M Charytanowicz and K Chyba (2020) 'Copyright and publication information.'.

4 C Grabenwarter, *European Convention on Human Rights Commentary*, (2004 C.H Beck, Hart, Nomos, Helbing Lichtenhan Verlag) 298.

5 As stated by N Rodley in Krause and Scheinin in "*International Protection of Human Rights: A Textbook",* (2nd ed Abo Academi University, 2012) "Freedom of opinion and expression; freedom of thought, conscience and religion; freedom of association; freedom of assembly; freedom of movement. All these freedoms together comprise what is understood as a free civil society."

fundamental rights by internet intermediaries and the responsibility of the state in this regard; state restrictions already placed over the exercise of these rights online such as filtering and shutdown of the internet, the potential evolution of a new right to access the internet, will also be examined.

Conceptual Clarification

Freedom

Freedom is defined as the power or right to do or say what you want without anyone stopping you[6]. In political discourse, political freedom is often associated with liberty and autonomy, and a distinction is made between countries that are free and dictatorships. Frequently discussed in such contexts are freedom of assembly and freedom of association.

Sometimes the terms ‘freedom’ and ‘liberty’ tend to be used interchangeably.[7] Subtle distinctions are however made between "freedom" and "liberty".[8] John Stuart Mill, differentiated liberty from freedom in that freedom is primarily, if not exclusively, the ability to do as one wills and what one has the power to do, whereas liberty concerns the absence of arbitrary restraints and takes into account the rights of all involved. As such, the exercise of liberty is subject to capability and limited by the rights of others.[9]

Isaiah Berlin made a distinction between ‘positive freedom’ and ‘negative freedom’ in his seminal 1958 lecture two concepts of liberty He argues that negative freedom is the absence of external constraints or interference, while positive freedom is the presence of the capacity and resources to act on one's own will.[10]

Charles Taylor elaborates that negative liberty connotes an ability to do what one wants, without external obstacles while positive liberty is the ability to fulfill one's purposes.[11]

Descriptions of freedom and liberty generally do not invoke having liberty *from* anything. Freedom differs from liberty as control differs from

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6 Oxford advanced learners dictionary 10th Edition

7 B Badie, D Berg-Schlosser, L Morlino, *International Encyclopedia of Political Science* (2011), p. 1447: "Throughout this entry, incidentally, the terms freedom and liberty are used interchangeably".

8 W H Chun, *Control and Freedom: Power and Paranoia in the Age of Fiber Optics* (2008) 9.

9 M J Stuart [1859] 1869 *On Liberty* (4th ed.). London: Longmans, Green, Reader, and Dyer. pp. 21–22 Archived 17 November 2022 at the Wayback Machine.

10 I Berlin, *Two Concepts of Liberty* (OUP 1958) 16

11 All Answers ltd, ‘Analysing Charles Taylors Critique Of Negative Freedom Philosophy Essay’ (*UKEssays.com*, June 2025) <https://www.ukessays.com/essays/philosophy/analysing-charles-taylors-critique-of-negative-freedom-philosophy-essay.php?vref=1> accessed 30 June 2025

discipline. Liberty, like discipline, is linked to institutions and political parties, whether liberal or libertarian; freedom is not. Although freedom can work for or against institutions, it is not bound to them, it travels through unofficial networks. To have liberty is to be liberated from something; to be free is to be self-determining, autonomous. Freedom can or cannot exist within a state of liberty: one can be liberated yet *unfree,* or *free* yet enslaved[12]

Association

An association is defined as a group of people organized for a joint purpose,[13] usually a shared interest, activity, or purpose in common.[14] Unlike informal gatherings or spontaneous communities, associations are typically structured entities governed by specific rules or frameworks, often involving recognized leadership or supervisory mechanisms. The nature of an association can vary widely, encompassing purposes such as advocacy, recreation, professional development, or humanitarian service.[15]

Associations differ in important ways from other forms of social organisations. A group may simply consist of individuals without a defined purpose or structure. A team, while organised around a common goal, may not necessarily operate within a formal or legally recognised framework. A community often evolves organically, with members joining or leaving spontaneously, whereas membership in an association usually involves voluntary but deliberate commitment to shared objectives and often, adherence to a constitution or code of conduct.

The collective nature of associations fosters unity and shared responsibility. By working toward a common goal, members not only develop a sense of commitment but also learn to assume roles suited to their skills and capacities. Associations, therefore, serve as a fundamental mechanism through which individuals exercise their right to freedom of association, recognised in international human rights law as essential for the development of pluralistic, democratic societies[16].

12 W H Chun, *Control and Freedom: Power and Paranoia in the Age of Fiber Optics* (The MIT Press 2005), 9.

13 Oxford Advanced Learner's Dictionary 10th edition.

14 American Heritage Dictionary of the English Language, Fifth Edition. Copyright © 2016 by Houghton Mifflin Harcourt Publishng Company. Published by Houghto n Mifflin Harcourt Publishing Company.

15 H L Costner (1965), Criteria for measures of association. *American Sociological Review*, 341-353.

16 L Swepston, 'Human Rights Law and Freedom of Association: Development through ILO Supervision' (1998) 137(2) International Labour Review 169.

Peaceful Assembly

The definition of what constitutes a peaceful assembly predetermines the scope of protection afforded by the right of peaceful assembly, and which individual and societal interests and values the right would be able to uphold. The interests and values that underlie the right explain, in turn, the kind of protections available, and the specific exceptions from protection which existing laws may allow. Although the definition of peaceful assembly is important from both a theoretical and practical perspective, its importance need not be overstated. The fact that a gathering or a collective message does not fall within the scope of "peaceful assembly", as defined in international human rights law (IHRL), does not mean that it is not protected by other provisions of IHRL, such as freedom of expression or association. Still, these alternative protections may be sub-optimal in nature since they lack some of the specific procedural guarantees and nuanced balancing, which exist in connection with the right to peaceful assembly. The term "peaceful assembly" is not defined in IHRL treaties, nor is it common to find a definition for the term "assembly" in national constitutional texts.[17] In some national Constitutions, the notion of peacefulness is explicitly linked to absence of arms.[18] In some others, the right to peaceful assembly is associated with demonstrations; [19] and yet in others, it is tied to the term 'petition'. It is against this background of a lack of a clear definition in domestic constitutional law and international law, that the work of IHRL bodies seeking to elaborate the contents of state obligations to implement the right to peaceful assembly assumes particular significance.

Legal Framework

The protection of the right to private and family life in Nigeria is underpinned by a multi-layered legal framework, drawing from international, regional, and domestic instruments. These frameworks aim to safeguard individual privacy in an increasingly digital world, though their application and effectiveness face ongoing challenges. Key provisions across these instruments include Article 12 of the Universal Declaration of Human Rights (UDHR), Article 17 of the International Covenant on Civil and Political Rights (ICCPR), Article 4 of the African

17 US Constitution, 1st Amendment; Indonesian Convention, art. 28; Constitution of the Federal Republic of Nigeria, art. 40; Constitution of the Republic of Poland, art. 57; Canadian Charter of Rights and Freedoms, art. 2(c); Constitution of the People's Republic of China, art. 35; Constitution of Japan, art. 21.

18 Indian Constitution, art. 19; Basic Law of the Federal Republic of Germany, art. 8; Constitution of the Italian Republic, art. 17; Constitution of Brazil, art. 5(XVI).

19 Constitution of the Portuguese Republic, art. 45; Constitution of the Republic of South Africa, art. 17; Constitution of the Kingdom of Morocco, art. 29.

Charter on Human and Peoples' Rights (ACHPR), and Section 37 of the 1999 Constitution of the Federal Republic of Nigeria. This section will delve into each of these legal tiers, providing contextual analysis of their relevance in the digital age.

International Instruments

The international community has long recognized the importance of privacy as a fundamental human right. These foundational documents serve as benchmarks for national legislation and provide a basis for international accountability.

Under the Universal Declaration of Human Rights (UDHR), 1948, Article 12 explicitly states: "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 or attacks." This article forms the bedrock of privacy protection globally, emphasizing the right to be free from unwarranted intrusion by state and non-state actors. In the digital age, this extends to online activities, data collection, and surveillance.

So also, the International Covenant on Civil and Political Rights (ICCPR), 1966, in Article 17, reiterates and expands upon the right to privacy:

> '(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 ICCPR further clarifies that any interference must be both lawful and not arbitrary, meaning it must be based on clear legal provisions and necessary and proportionate to a legitimate aim. This principle is crucial in regulating data collection by digital platforms and government surveillance.

Regional Instruments

Regional human rights instruments further solidify privacy protections within specific geographical contexts, adapting universal principles to regional realities and legal traditions.

The African Charter on Human and Peoples' Rights (ACHPR), 1981 in Article 4 enshrines the right to respect for the dignity inherent in a human being and to the recognition of his legal status. While not explicitly using the term 'privacy,' this article, read in conjunction with other provisions emphasizing personal integrity and freedom from arbitrary interference, has been interpreted to encompass the right to

private and family life. The Banjul Charter, as it is also known, is particularly significant in Nigeria as it has been domesticated into Nigerian law through the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, Cap A9, Laws of the Federation of Nigeria 2004, making its provisions directly enforceable in Nigerian courts.

Domestic Instruments

Nigeria's domestic laws and judicial pronouncements reflect its commitment to protecting private and family life, albeit with varying degrees of effectiveness in the digital sphere.

First, the 1999 Constitution of the Federal Republic of Nigeria (as amended) directly guarantees, under Section 37, the right to private and family life: ‘The privacy of citizens, their homes, correspondence, telephone conversations and telegraphic communications is hereby guaranteed and protected.’ This provision provides a constitutional basis for privacy rights, serving as a fundamental safeguard against state intrusion. However, the scope of this provision in the context of rapidly evolving digital technologies, such as social media platforms and extensive data harvesting, remains a subject of judicial interpretation and legislative development.

Furthermore, recognizing the increasing importance of data privacy in the digital age, Nigeria enacted the Nigerian Data Protection Act (NDPA), 2023. This Act is a significant step towards a comprehensive legal framework for data protection. It aims to regulate the processing of personal data, establish the Nigerian Data Protection Commission, and provide rights to data subjects. The NDPA addresses key aspects such as consent for data collection, purpose limitation, data minimization, and the right to be forgotten. Its implementation and enforcement are crucial for effectively safeguarding private life online.

Beyond these primary instruments, other Nigerian statutes and judicial pronouncements contribute to the protection of private and family life. These may include laws related to cybercrime, telecommunications, and intellectual property, which indirectly touch upon aspects of digital privacy. Nigerian courts have also played a role in interpreting and applying these rights, with some landmark cases providing important precedents regarding the limits of state power and the protection of individual liberties. For instance, cases dealing with unlawful surveillance, arbitrary arrests, and the unauthorized dissemination of personal information have contributed to the evolving jurisprudence on privacy in Nigeria. However, a consistent and robust judicial approach to digital privacy remains a developing area.

The Right to Peaceful Assembly and Association in the Age of the Internet

It is true to state that the information and technology (ICT) revolution defined the way in which individuals and groups do things. Despite the exclusions of the digital divide, the personal computer and the mobile phones are the commonplace of our everyday life. E-mail, the internet and ubiquitous telephony permeate the fabric of social interaction. It is therefore hardly surprising that these new technologies have been adopted and adapted by civil societies around the world as innovative platforms that open up new possibilities and allow individuals and groups to exercise their fundamental human rights in exciting new ways. Conversely, ICT has evoked a range of responses from authorities seeking to limit or abrogate the exercise of fundamental human freedoms.[20]

Freedom of association and assembly in the context of digital revolution, defines the nature of these two rights and the opportunities that new digital tools provide for their exercise. It has been argued that powerful platforms or individuals and groups to assemble and associate and give a range for examples the Zimbabwe opposition to the union movement. Same tools provide new manifestations of some traditional repressive tactics for the state and others in authority to monitor and crack down on the exercise of these rights[21].

A key challenge for States in protecting Internet freedoms is that so much of the infrastructure supporting online activity is privately owned. Questions on how the government should make a positive obligation to protect association and assembly on private social media sites be balanced against those sites' private property rights under Article 1 Protocol 1 of the Convention. So far the Court has been very reluctant to protect equivalent physical assemblies, such groups distributing leaflets and collecting signatures in private shopping centers[22]. It has found that Article 10, and by implication Article 11, confers no "freedom of forum," and that changing modes of social interaction do not require "the automatic creation of rights of entry to private property" – although accepting this might arise in a situation such as "a corporate town where the entire municipality is controlled by a private body". It is interesting to speculate how far a single social networking services market share would have to rise to meet this condition.

20 C Lewis (2006), The right of assembly and freedom of association in the information age.

21 Ibid

22 S Fraser, Turkey Investigates Social Media Postings That Allegedly Insult Officials, The Huffington Post, 27.6.2013 100 Note 39.

Recommendation

There are several recommendations for governments, CSOs, and international actors to protect and expand freedom of association in the digital age.

Government should:

Repeal laws that are contrary to constitutional and international obligations regarding individual or media freedom, and put in place legal frameworks to protect individuals and media of freedom of expression.

Promote greater transparency regarding laws, especially new or proposed laws, with impacts on the citizen's freedom. Governments should undertake participatory review processes with civil society and other stakeholders on all such draft laws. Governments should compile and make public information about legal authorities permitting government bodies to survey and restrict the activities of media organizations and journalists, including citizen journalists. Similarly, governments should publicly explain the operation of proposed laws that would permit authorities to collect and store private information, including any mechanisms to ensure that privacy rights of individuals are not infringed.

International and local civil society should:

Work with governments and provide expertise where necessary to ensure laws in respect to freedom are put in place.

Be attentive not only to laws restricting individual freedom, but to laws enabling abuses by government entities that may chill an individual's freedom in the future. For example, civil society activists should conduct advocacy and supportive interventions – including research, awareness-raising, and formation of cross-national coalitions – to ensure that the collection of electronic communications and data is subject to necessary safeguards and consistent with international human rights law, and to oppose adoption of legal frameworks that would authorize overbroad or indiscriminate collection of internet traffic data.

Conclusion

The internet is a collective space where human rights are experienced and restricted for billions of people every day. Vulnerable groups and individuals often use the internet as the sole space in which they can exercise their human rights, including the right to assembly and association. Increasing digital authoritarianism has made it difficult for many of those individuals and groups to exercise their basic human rights online.

Chapter 9

THE RIGHT TO ACQUIRE AND OWN PROPERTY: IMPACT ON VULNERABLE GROUPS

By

Ivy Iember Acka [*] ***and Bukunmi Naiyeju*** [**]

Introduction

The relevance of land as a gift of nature to mankind cannot be over-emphasised, as the human society across the world is heavily dependent on land and its resources. Predominantly, it is from land that man gets items very essential for his survival, such as food, fuel, clothing, shelter, medication and other necessities of life.[1] In light of this, it is therefore imperative to protect, promote and enforce the fundamental human rights of every individual to own and acquire property in Nigeria, without discrimination or bias.

Section 43 of the 1999 Constitution of the Federal Republic of Nigeria (as amended) provides that: "Subject to the provisions of this constitution, every citizen of Nigeria shall have the right to acquire and own immovable property anywhere in Nigeria". Therefore, unless otherwise specified under Section 44[2] of the Constitution, no one should be denied the ability to purchase and possess property in Nigeria. Section 44(1)[3] states that: "No moveable 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 purpose prescribed by law...". This effectively prohibits any individual, group, or government from purposefully denying anybody their ability to purchase and possess property, unless there are specific circumstances specified by Law. Although, this right is enshrined under Section 43 and 44 of the 1999 Constitution of the Federal Republic of Nigeria (as amended), as

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1 C A Onah and H U Obi-Obiora, 'Women And The Right To Acquire And Own Land In Nigeria: Examining The Conflicts Between Statutory And Customary Law' (2022) UNIZIK Journal of Public and Private Law, <file:///C:/Users/Administrator/Downloads/2172-2863-1-PB.pdf> accessed 21 July 2024

2 Constitution of the Federal Republic of Nigeria, 1999

3 *Supra*

well as other legal frameworks, including statutory laws and international conventions. However, some societal limitations that vulnerable groups are oftentimes exposed to, hinders the enjoyment of this right.

This chapter seeks to examine the right to own and acquire movable and immovable property, and the effects of societal and cultural practices on vulnerable groups. The chapter will define some concepts as it relates to vulnerable groups, and property rights. It will also identify both international and domestic instruments guiding the rights to own and acquire property in Nigeria, as well as enumerate certain exceptions to the right to own and acquire immovable property in Nigeria as provided by law. In addition, it will highlight some extract of complaints on the rights to own property as received within the National Human Rights Commission and make applicable recommendations.

Conceptual Clarification of Terms

Human Rights

Human rights are inherent to us all, regardless of nationality, sex, national or ethnic origin, color, religion, language, or any other status[4]. They range from the most fundamental - the right to life - to those that make life worth living, such as the rights to food, education, work, health, and liberty[5]. Chapter IV of the Constitution[6] makes provisions for the various rights, ranging from the right to life, right to free and family life, right to fair hearing, freedom from torture and inhumane treatments, right to assembly and religion, etc.

Vulnerable Group

A vulnerable group is a segment of the population that experiences a higher risk of suffering from social, economic, or environmental disadvantages.[7] These groups typically face barriers that limit their access to resources, opportunities, and protections, making them more susceptible to harm, exploitation, and exclusion. Factors contributing to vulnerability can include but are not limited to, poverty, discrimination, lack of education, poor health, and social or political marginalization. Some examples of vulnerable groups are, people in prison, refugees, employees, minorities, people with mental illness, children, and physically or intellectually disabled people[8].

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4 United Nations Human Rights,< https://www.ohchr.org/en/what-are-human-rights> accessed 16 July, 2024

5 Supra

6 1999 Constitution of the Federal Republic of Nigeria as amended

7 R Deden, 'Vulnerable Populations. In: Michalos, A.C. (eds) Encyclopaedia of Quality of Life and Well-Being Research. Springer' (2014). Dordrecht. <https://doi.org/10.1007/978-94-007-0753-5_3184>

8 K Mcqueen, 'What Makes a Population Vulnerable'

Property

Property is anything (items or attributes/tangible or intangible) that can be owned by a person or entity.[9] Property is the most complete right to something; the owner can possess, use, transfer or dispose of it, and it can either be movable or immovable.

Movable Property

Movable property is the property that you own and can take with you, which does not include houses, apartment or land.[10] Examples of which may include but not limited to; vehicles, jewellery, electronic devices, royalty.

Immovable Property

Immovable property is an asset which cannot be moved from one place to another. Immovable property refers to assets that are permanently attached to the earth, such as land, buildings, trees, and so on. These assets cannot be moved without changing their form or causing damage.[11] Examples of which may include, land, houses, trees attached to the ground etc.

Legal Framework

There are various international, regional and domestic laws regulating the right to own and acquire property in Nigeria, and protecting the access of Vulnerable groups to this right.

International/Regional Framework

Universal Declaration on Human Rights

Article 17 of the Universal Declaration of Human Rights (UDHR) makes provision for the right to property stating that, “Everyone has the right to own property alone as well as in association with others. The Article further stated that, “No one shall be arbitrarily deprived of his or her property”[12] By the provision of this Article, everyone will be provided

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<https://study.com/academy/lesson/vulnerable-population-definition-examples.html> accessed 17 July 2024

9 Cornell Law School, <https://www.law.cornell.edu/wex/property> accessed 16 July 2024

10 Cambridge Dictionary <https://dictionary.cambridge.org/dictionary/english/movable> accessed 16 July 2024.

11 The Legal school, ‘Difference Between Movable & Immovable Property: Meaning & Characteristics’, <https://www.sobha.com/blog/difference-between-movable-immovable-property/#:~:text=Movable%20property%20includes%20assets%20that,commercial%20spaces%20are%20immovable%20properties.> accessed 17 July 2024.

12 Universal Declaration on Human Rights, 1948 Article 17(2)

equal opportunity to own and acquire property alone and in association with anyone of choice.

International Labour Organisation's Convention Concerning Indigenous and Tribal Peoples in Independent Countries, 1989 (No 169)

Article 14[13] provides that the rights of indigenous and tribal persons to own and possess lands that are traditionally occupied must be recognised. Article 14(1)[14] provides as follows: "The rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy shall be recognised. In addition, measures shall be taken in appropriate cases to safeguard the right of the peoples concerned to use lands not exclusively occupied by them, but to which they have traditionally had access for their subsistence and traditional activities. Particular attention shall be paid to the situation of nomadic peoples and shifting cultivators in this respect."

Article 14(2)[15] further provides that: "Governments shall take steps as necessary to identify the lands which the peoples concerned traditionally occupy, and to guarantee effective protection of their rights of ownership and possession."

International Covenant on Civil and Political Rights

Article 1(2) provides that: "All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence".[16]

African Charter on Human and Peoples' Rights

This charter makes provisions for the right of people to own and acquire property, as well as the grounds upon which such right can be revoked or retrieved. Article 14 provides that, "The right to property shall be guaranteed. It may only be encroached upon in the interest of public

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<https://www.un.org/en/about-us/universal-declaration-of-human-rights> accessed 20 July 2024.

13 The International Labour Organization's Convention Concerning Indigenous and Tribal Peoples in Independent Countries, 1989 (No 169), <https://normlex.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C169> accessed 17 July 2024.

14 Supra.

15 Supra.

16 United Nations, 'International Covenant on Civil and Political Rights', General Assembly Resolution 2200A(XXI)(adopted 16 December, 1966) available online at <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights> accessed 16 July 2024.

need or in the general interest of the community and in accordance with the provisions of appropriate laws".[17] Going by this provision, the right to an immovable property can only be ousted where such rights encroach on, or overrides with public interest. The Government can upon such instance, give adequate notice to the owner of the immovable property, revoke its consent and provide compensation for the damages that might have been caused.

Domestic Framework

There are domestic laws guiding the right to own and acquire property in Nigeria, which varies according to States. However, the most relevant ones that is applicable in all States within Nigeria are the 1999 Constitution of the Federal Republic of Nigeria (as amended) and the Land Use Act.

1999 Constitution of The Federal Republic of Nigeria (As Amended)

The Constitution of the Federal Republic of Nigeria 1999 (as amended) guarantees citizens' rights to own and acquire property. Section 43[18] provides that: "Subject to the provisions of this Constitution, every citizen of Nigeria shall have the right to acquire and own immovable property anywhere in Nigeria''. By the provision of this section, the right to own and acquire immovable property anywhere in Nigeria is vested in the citizens, and such right would not be subject to any form of discrimination on the grounds of culture, gender, language, religion, political or social beliefs.

Section 44[19] went ahead to reiterate that the rights in any movable or immovable property can be acquired anywhere within Nigeria and such rights or ownership, shall not be compulsorily acquired, except otherwise prescribed by Law. Subsection (2) (a-m)[20] of the provision enumerated some exceptions to the right to own and acquire property, stating that, "No moveable 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".

17 African Charter on Human and Peoples' Rights, 1981 <https://au.int/sites/default/files/treaties/36390-treaty-0011_-_african_charter_on_human_and_peoples_rights_e.pdf> accessed 17 July 2024.

18 Constitution of The Federal Republic of Nigeria, 1999.

19 Supra.

20 Constitution of the Federal Republic of Nigeria, 1999 section 44(2)(a-m).

Exceptions to the right to own and acquire immovable property in Nigeria as provided under Section 44(2) (a-m) of the 1999 Constitution (as amended)

The provisions of section 44(2) (a-m)[21] of the Constitution identified various exemptions upon which an interest in an immovable property maybe compulsorily acquired in any part of Nigeria, and these exemptions are;

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 vesting 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) providing 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) providing 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, providing 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.

Land Use Act Cap 202, 1978

By the provision of Section 1 of the Land Use Act[22], all land in the territory of the State is vested in the Governor of that State to hold in trust for the use and benefit of the State. The Section states that: “all land comprised

21 Supra.
22 Land Use Act 1978 Cap. L5 Laws of the Federation of Nigeria, 2004.

in the territory of each State in the federation are hereby 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 Nigerians in accordance with the provisions of this Act."

The right of every Nigerian to own land in any part of the country is therefore subject to the interest of the Governor, and it shall be unlawful for the holder of a statutory right of occupancy granted by the Governor to alienate his right of occupancy or any part thereof, by assignment, mortgage, transfer of possession, sublease or otherwise without the consent of the Governor first had and obtained.[23] However, the Governor may also revoke a right of occupancy for overriding public interest, see section 28(1).[24]

Types of Overriding Public Interest Available Under the Land Use Act

The provisions of Section 28 (2)[25] and (3)[26] of the Land Use Act gave a detailed distinction of what may classify as overriding with public interests and they are:

Overriding Public Interest in the case of a Statutory Right of Occupancy[27]

Some examples of the overriding public interest in the case of a statutory right of occupancy are highlighted under Section 28(2)(a-c) of the Land Use Act, among which we have: the alienation by the occupier by assignment, mortgage, transfer of possession; or the requirement of the land by the Government of the State or by a Local Government in the State, in either case for public purposes within the State; or the requirement of the land by the Government of the Federation for public purposes of the Federation; and the requirement of the land for mining purposes or oil pipelines, or for any purpose connected therewith.

Overriding Public Interest in the Case of a Customary Right of Occupancy[28]

Some examples of the overriding public interest in the case of a customary right of occupancy are highlighted under Section 28(3)(a-d) of the Land Use Act, among which we have: the requirement of the land for mining purposes or oil pipelines or for any purpose connected therewith; the requirement of the land for the extraction of building

23 Land Use Act 1978 Cap. L5 Laws of the Federation of Nigeria, 2004 s 22(1).
24 Ibid.
25 Ibid.
26 Ibid.
27 ibid s 28 (2).
28 ibid s 28 (3).

materials and the alienation by the occupier, the sale, assignment, mortgage, transfer of possession, sub-lease, bequest or otherwise of the right of occupancy without the requisite consent or approval.

Persons Exempted from Owning and Acquiring Immovable Property in Nigeria.

According to the provisions of law, certain categories of persons are precluded from owing and acquiring immovable property in Nigeria, and they are as follows:

1. Persons below the age of 21 years. The Land Use Act 1978 under section 7 prescribes that: “it shall be unlawful for the Governor of a State to grant statutory rights of occupancy or consent to the assignment or subletting of a statutory right of occupancy to a person under the age of 21 years.” However, the law permits the transfer of interest in the immovable property in favour of the minor under a trust agreement;
2. Persons adjudged to be of unsound mind by a court in Nigeria or elsewhere, are incapable of validly making or being a party to the acquisition or transfer of an interest in land. Generally, a person who has been adjudged to be of unsound mind is exempted from entering into a valid contract. However, the purchase and sale of an immovable property is a contractual one, and as such, only legally fit persons can enter into it;
3. Incarcerated persons or persons serving time imprisonment. The provisions of Section 44 (2) (b) and (e) of the 1999 Constitution of the Federal Republic of Nigeria (as amended), stated that for the purpose of imposing penalties or forfeiture for breach of any law; or relating to the execution of judgments or order of courts, a person’s right in an immovable property can be compulsorily taken possession of. An example is the case of the former governor of Bayelsa State, Diepreye Alamieyeseigha, who was convicted of money laundering, and had to forfeit his landed properties to the Federal Government, during the subsistence of his 12 years imprisonment term.

The Impact of the Right to Acquire and Own Property on Vulnerable Groups

Vulnerable groups in the society are people that are mostly disadvantaged due to a particular characteristic they possess, or based on societal or cultural limitations. Some common examples of vulnerable groups in society include: elderly people; people with low incomes; uninsured people; homeless people; racial or ethnic minorities; people in prison; migrant workers; pregnant women; people in the LGBTQIA

community; and children.[29] Vulnerability sometimes comes with certain situations or challenges beyond one's control, for instance, a woman who has lost a husband and becomes a widow; persons in conflict and humanitarian situations because of climate change, armed conflict, health issues amongst other issues. There are persons who are stigmatized and discriminated against in the society like the albinos, the dialas, persons with disabilities are often times classified as vulnerable persons.

Individuals who are considered vulnerable are oftentimes discriminated against in the acquisition or ownership of landed property in Nigeria. This bias, which disproportionately affects women, religious minorities and other marginalized groups, manifests in various forms ranging from legal, cultural, social and economic barriers. The complexity attributed to the ownership of landed property in Nigeria under the Land Use Act, which vest control of Land in the State, sometimes makes it inaccessible for vulnerable groups who may lack the means to navigate the bureaucratic processes. Also, in many parts on Nigeria, Customary Laws governs land ownership and inheritance. These laws often preclude women from owning or inheriting landed property, as it discriminates against women and favors men more.

Discussed below are some of the examples of vulnerable groups who are phased with discrimination and bias in the ownership and acquisition of landed property in Nigeria:

The Right of Women to Acquire and Own land in Nigeria

The deeply rooted patriarchal system in the culture and traditions across communities in Nigeria, makes it near impossible for women and girls to inherit or own property in Nigeria, as they are often excluded from inheriting family land and assets.

By virtue of section 43[30], 'every citizen of Nigeria shall have the right to acquire and own immovable property anywhere in Nigeria' and such right cannot be arbitrarily deprived irrespective of gender, status, ethnic, orientation etc. Therefore, unless otherwise specified by law, no one should be denied the ability to purchase and possess property in Nigeria. The conditions listed under Section 44[31] of the Constitution specify when possession over landed property can be compulsory acquired in Nigeria. The section states as follows:

29 K Mcqueen, 'What Makes a Population Vulnerable' <https://study.com/academy/lesson/vulnerable-population-definition-examples.html> accessed 17 July 2024

30 Constitution of the Federal Republic of Nigeria, 1999.

31 Supra.

No moveable 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 purpose prescribed by law

In interpreting the provisions of section 43 and 44 of the Constitution in conjunction with the section 42(1)(a)[32] of the Constitution, which prohibits discrimination of any form including on grounds of sex, the right of both men and women are constitutionally guaranteed to own properties which include land. The section provides as follows:

(1) A citizen of Nigeria of a particular community, ethnic group, place of origin, sex, religion or political opinion shall not, by reason only that he is such a person:

> (a) be subjected either expressly by, or in the practical application of, any law in force in Nigeria or any executive or administrative action of the government, to disabilities or restrictions to which citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religions or political opinions are not made subject; or …

This therefore reveals that nothing in the Constitution, which is the grundnorm for other operational law within Nigeria, precludes women from acquiring, inheriting or retaining interest in landed property.

However, under customary law, land ownership is solely a male responsibility as it is only the male offspring that can assume the position of Head of Family or primary member of the family. The basic rule under customary law is that land belongs to the communities, villages or families with the community head or family head, as ‘manager’ holding the land in ‘trust’ for the use of the whole community or family. Women are only granted a right of use under specific circumstances, such as when the primary family members give them access to certain areas of the property, which is often based on their husband's right to use.

One aspect of Nigerian customary law, is the propensity to deny women their land rights, particularly when it comes to inheritance. For example, in most Nigerian custom, the male population is the only one with the right to inherit landed property. It is rather unfortunate that women are still denied their rights to acquire and own property in some parts of the country in spite of the protection of this right in the Constitution and other International and Regional Human Rights Instruments.

In Nigeria, many divorced women become economically disadvantaged and are often denied the right to claim ownership of property acquired during the marriage. This stems from the prevailing

32 Constitution of the Federal republic of Nigeria 1999

view that marriage is not a partnership of equals, especially concerning property rights. As a result, Nigerian courts typically do not redistribute property upon divorce, leaving women without a fair share of marital assets.

Article 7(d) of the Protocol to the rights of women in Africa (Maputo protocol) states 'that in case of separation, divorce or annulment of marriage, women and men shall have the right to an equitable sharing of the joint property deriving from the marriage'.[33] Furthermore, Article 16(h) of the Convention on the Elimination of all Discrimination against Women (CEDAW) makes provision for the same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration[34]. The situation faced by widows in certain parts of the country is deeply troubling, as many are left vulnerable and are often denied the right to inherit their late spouse's land or property.

Articles 21 (1-2) of the Protocol on the rights of women in Africa (Maputo protocol) makes provision for a widow's inheritance stating that, "(1) A widow shall have the right to an equitable share in the inheritance of the property of her husband. A widow shall have the right to continue to live in the matrimonial house. In case of remarriage, she shall retain this right if the house belongs to her or she has inherited it. (2) Women and men shall have the right to inherit, in equitable shares, their parents' properties". In many places the widows are not only denied their rights to inheritance but are also accused of killing their spouses, while some are made to remarry their in-laws in order to retain their late husband's inheritance.

Section 15 of the Violence Against Persons Prohibition Act, prohibits harmful widowhood practices stating that, 'A person who subjects a widow to harmful traditional practices commits an offence is liable on conviction to a term of imprisonment not exceeding 2 years or to a fine not exceeding N500,000.00 or both[35]. Denying a widow the right to acquire and own property should also be interpreted as a harmful widowhood, as it ultimately puts the woman at several risks.

The Osu Caste System and the Right to Acquire and Own Property

In every society, there exist some level of disparity, discrimination, prejudice, injustice amongst the people, superiority is exercised over

33 The Protocol on the Rights of Women in Africa (Maputo protocol), <https://www.amnesty.org/en/wp-content/uploads/2021/09/ior630052004en.pdf> accessed 18 July 2024

34 Convention on the Elimination of all Discrimination Against Women, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women> accessed 18 July 2024

35 Violence Against Persons Prohibition Act, 2015

others. This makes some people vulnerable in a society. The Osu people prominent in the eastern part of Nigeria fall under this category, according to Nneka Sophie Amalu “Amongst the Igbo of South-east zone of Nigeria, there is the caste system the Osu caste system. It is perhaps among the world's longest surviving status discrimination as that of the Indian caste system; and it is believed to be as old as Igboland itself”.[36] Every citizen of Nigeria has the right to this right but unfortunately the Osu is denied the right to acquire and own immovable property in his community. The Osu has no right to own land according to tradition.

Land belongs to the community which excludes the Osu. Land is shared only to the Diala segment. It is a punishable abomination for a Diala to sell land to an Osu as the former risks bearing the Osu mark. Furthermore, the Osu people were never allowed to build houses near a Diala own because an abomination will be committed if rain falls and washes mud from the Osu houses to free borns. Thus, this is the justification for why most Osu live near shrines and confined places, usually outskirts and fringes of the community. It is also believed that as they live at the edges, any impending calamity that might befall the community will be absorbed by them.[37]

Conclusion/Recommendation

The provisions of the Nigerian Constitution and the Land Use Act, particularly when read in conjunction with Section 42 of the Constitution which prohibits discrimination of any kind, indicate that there are both constitutional and statutory protections for women's land rights in Nigeria. While these legal provisions affirm that the right to own and acquire property is guaranteed to all individuals regardless of sex, colour, religion, origin, or political beliefs, there remains a growing concern about the influence of customary laws, traditional practices, and social barriers. These factors continue to hinder vulnerable groups, especially women, from fully exercising their rights to own and acquire property.

It is therefore recommended that legal reforms be undertaken to regulate the application of customary rules of inheritance, with provisions ensuring equal rights for both men and women in this regard. These reforms should also include the criminalization of all customary practices that violate the fundamental rights of vulnerable groups to own and

36 N S Amalu, ‘Osu Caste System And Human Rights In Igboland’, Global Journal Of Social Sciences (2021) Vol 20 < https://www.ajol.info/index.php/gjss/article/view/213229> accessed 18 July 2024

37 O T Abia and others, Osu Caste System and Human Rights in Igboland, Global Journal Of Social Sciences (2021) Vol 20 < https://www.ajol.info/index.php/gjss/article/view/213229> accessed 18 July 2024

acquire property in Nigeria. Such measures would serve as a deterrent to individuals who may seek to perpetuate these discriminatory practices.

Furthermore, there is a need for cultural sensitization and public awareness to challenge the patriarchal norms and promote gender equality in property ownership. Also, a dialogue with community leaders to address and reform discriminatory traditional practices, should promoted in other to bring an end to harmful and discriminatory practices in the communities.

In conclusion, it is therefore important to intensify efforts to promote, protect and enforce the right of vulnerable groups in Nigeria to own and acquire property, as it is a well-recognised and acknowledged right across the world, which is germane to the growth and development of any State.

Some of the Complaint received by the Commission on Rights to Acquire and Own Property are as follows:

C/2024/CPR/364/ENUGU

The Commission received a complaint dated 5th December, 2024 from Y alleging that his landlord is denying him of his right to shelter by uprooting his rood when he was not around. The incident happened at No. 13, Ngwo Avenue, Iva Pottery, Ngwo, Enugu. He pleads with the Commission to compel his landlord to put back his roof for him.

C/2024/CPR/373/ENUGU

The Commission received a complaint dated 20th December 2024 from Y. Y complained that his siblings YYYY are threatening his life, Conspiracy and denying him right to their father's property. Y accused his siblings of selling off their father's property without his consent. He has made efforts like reporting the matter to their kinsmen yet no solution was found. This incident happened In Ukehe Igbo-Etiti L.G.A. of Enugu State**.**

C/2024/CPR/164-165

The Commission received a complaint dated 4th day of December, 2024 from Y of Dutse local government Jigawa state against Y of Kaskabna village of Kiyawa local government Jigawa state on an alleged denial of right to own a landed property situated at Baranda village of Dutse local government Jigawa state on 18th February, 2024.

C/2024/CPR/144/AKR

The Commission received a complaint dated 25th October 2024 from X, proprietor of XY Nursery & Primary School, located at Ala-Elofosan,

Idanre, Ondo State. The complaint was lodged against the Nigerian Police Force, Yaba Division, and pertains to allegations of breach of peace and discrimination. According to the complainant, the school was established on 14th September 2015 and relocated to its present site in July 2017. The land on which the school currently operates was allocated by a respondent who resides adjacent to the premises and is the parent of three pupils enrolled at the school. However, another individual has since come forward, also claiming ownership of the same piece of land. This second claimant is allegedly known for intimidating and extorting members of the local community under the pretense of ownership. The complainant alleges that the original respondent has continuously disrupted the peace, caused structural damage to the school, and made unreasonable financial demands. The school currently operates from a temporary structure, pending relocation to a permanent site, with part of the current space situated on a power line setback.

Despite the intervention of the Olu of Ala-Elofosan, Idanre, and involvement by the police, the respondent has reportedly disregarded these efforts and continues to threaten further destruction. It is alleged that during a recent holiday coaching session, the respondent damaged school property and demanded payment of N200,000 (Two Hundred Thousand Naira) for rent dating back to 2017, along with an additional N50,000 (Fifty Thousand Naira) for the year 2024.

The complainant is urgently seeking the Commission's intervention to halt any further damage to the school and put an end to what she describes as baseless and extortionate demands. She highlights the school's limited financial resources and her commitment to enhancing the educational environment for the pupils.

C/2024/ES-CR/028/KD

The Commission received a complaint dated 17th January, 2024 from X alleging that the family of XY her family of Y her husband has denied him access to their Father's farmland. The matter was admitted for investigation and intervention.

C/2024/VG/082/ANS.

The Commission received a complaint dated 27th March 2024 from XY the umbrella body of persons with disabilities in Anambra state on behalf of a hearing-impaired (deaf) member alleged that Y the uncle is taking undue advantage of his current disability and the only child of his late father to forcefully seize and construct his personal apartment on the only inherited land from his father. They alleged that every intervention to stay the ongoing construction proved abortive. The matter was admitted for investigation and intervention.

C/2024/WC/003/KGS
The Commission received a complaint dated 14th February 2024 from X alleging that she got engaged to Y her husband who is now late, after a formal family introduction nine years ago. She alleged that their relationship had been blessed with two children and that her husband died eight months before her complaint after a brief illness. She further alleged that following her husband's demise, his family members are requesting documents for his properties so that they can take them over and that the family is forcing her to travel to her husband's village to undergo traditional rites that she does not want to take part in. She sought the Commission's intervention to redress the situation. The matter was admitted for investigation.

C/2024/ESCR/004/KGS
The Commission received a complaint dated 27th February 2024, from Y alleging that he purchased a piece of land from the alleged XY in 2022, that after erecting a ten-bedroom house on the piece of land up to the roofing level, the house was demolished by the government without prior notice or reasons. He further alleged that he sought answers to the reason for the demolition from the Ministry of Lands and Town Planning and that he was asked to come with the seller of the land, which the seller has refused to make an appearance at the government office, which has made it impossible to resolve the matter. The complainant sought the Commission's intervention to redress the matter. The complaint was admitted for investigation.

C/2024/ESCR/036/KW
The Commission received a complaint dated 15th February, 2024 from X alleging Y her husband of deprived her property. She further alleged that he had restricted her of all her properties. The matter was admitted for investigation and intervention.

C/2024/ECSR/037/KW
The Commission received a complaint dated 23rd February, 2024 from X alleging Y her husband of not letting her have access to her personal belongings. The matter was admitted for investigation and intervention.

C/2024/ECSR/038/KW
The Commission received a complaint dated 14th of March, 2024 from Y alleged Y his uncle of depriving him his right to access his late father's property. He further alleged that all effort he had made to ensure he had access to his late father's properties was abortive. The matter was admitted for investigation and intervention.

C/2024/601-603/IMS
The Commission received a complaint dated 17th December, 2024 from X alleging denial of inheritance from Y her late husband's nephew at Ngor-Okpala LGA, Imo state. The matter was admitted for investigation and intervention.

C/2024/496-497/IMS
The Commission received a complaint dated 17th October, 2024 from XY alleging that X a widow was threatened with ejection by her late husband's sister who also wants to completely disinherit the widow of her husband property at Umuakuruku, Umuanunu, Obinze in Owerri west LGA, Imo state since August, 2024 and all interventions to prevent the respondent from her actions has proved abortive. The matter was admitted for intervention and investigation.

C/2024/507-511/IMS
The Commission received a complaint dated 7th November, 2024 from X alleging that Y her brother-in-law denied her and her children share of the family inheritance since after the death of Y her husband in 2017. The matter was admitted for investigation and intervention.

C/24/CPR/038/LAG
The Commission received a complaint dated 29th January, 2024 from X, alleging violation of her Rights to property and threat to life against XY, her uncle and wife. She wants the Commission to help her to ensure she gets what belongs to her. The matter was admitted for investigation and intervention.

C/2024/ESCR/11/ENUGU
The Commission received a complaint dated 17th January, 2024 from X alleging that Y her brother who resides in Amechi Awkunananaw, Enugu State, has denied her access to their father's property. She alleged that Y has sold two plots of land from their father's property without giving her a share from it.

C/2024/CPR/028/BSO
The Commission received a complaint dated 11th January 2024 from Y against Y, from Maiduguri, Y alleged that Y denied him access to his property. Y sought for the intervention of the commission. The commission admitted the complaint and the matter has been settled amicably.

C/2024/CPR/036/BSO
The Commission received a complaint dated 12th January 2024, from Y against Y a staff of the University of Maiduguri, Borno State. Y is alleging a case of Ejection from Ancestral Home Town Request for Legal Action. Y sought for the intervention of the commission. The commission admitted the complaint and a letter was written to the G.O.C 7 Division.

C/2024/ESCR/24/ENUGU
The Commission received a complaint dated 24th January 2024 from X alleging that XY is denying her share of late husband inheritance. She further alleged that all efforts made for them to give her the late husband share of inheritance prove abortive. She wants the Commission for intervention. The matter was admitted for investigation and intervention.

C/2024/WC/200/AKS
The Commission is in receipt of a complaint dated 24th May, 2024, from X against Y her brother; she alleged that her only surviving brother has refused to include her in the sharing of their late parent's estates on the grounds that she is a woman. She seeks the Commission intervention. The matter was admitted for investigation and intervention.

C/2024/WC/161/AKS
The Commission received a complaint dated 30th April, 2024 from X alleging that Y her husband's younger brother is threatening to throw her and her children out of her late husband's house. She further alleged that he is also threatening to sell out the land her late husband bought while alive. The matter was admitted for investigation and intervention.

C/2024/ESCR/33/ENUGU
The Commission received a complaint dated 1st February 2024 from X alleging that XY her late husband's siblings connived and possessed her late husband's houses. She also alleged that they confiscated her late husband's vital documents and refused to release them to her. She sought the intervention of the Commission. The matter was admitted for investigation and intervention.

C/2024/ESCR/012/JG
The Commission received a complaint dated 18th January 2024 from Y of Federal University, Dutse, Jigawa State, against the management of the same University alleging that the non-proper placement of his position/grade level by the Management of the same University since March 2018. All efforts made to resolve the matter proved abortive.

C/ 2024/54/IMS
The Commission received a complaint dated 22nd February 2024 from X of Umuegu Irete Owerri West LGA, Imo State accusing Y, her son, of selling the shop that her late husband left for her without her consent. She sought the intervention of the Commission to help her get her shop back.

C/2024/WC/225/AKS
The Commission is in receipt of a complaint dated 13th June, 2024 from X alleging that Y his late father's brothers are depriving her right to inheritance. She further alleged that she has been intimidated severally by them. The matter was admitted for investigation and intervention.

C/2024/55/IMS
The Commission received a complaint dated 22nd February 2024 from X alleging that one of her husband's kinsmen has refused to return two portions of land her late husband gave to him to farm, as he has no farmland of his own at Umukabia Amaigbo Nwangele LGA, Imo State.

C/2024/CPR/035-38/JG
The Commission received a complaint dated 5th March 2024 from Y and three others of Tsurma village, Kiyawa Local Government, Jigawa State against YY of the same address on the alleged unlawful seizure of property (land) located at the same address Tsurma village. Y stated that all efforts made to ensure the matter was amicably resolved within their community failed.

C/2024/WC/227/AKS
The Commission received a complaint dated 19th June, 2024 from X alleging that XY her late husband's brothers drove her out of her house. She alleged that he is claiming that she can't inherit any property of her late husband because she doesn't have a male child for their late brother. She further alleged that her late husband had a fatal accident on 11th March, 2024 and was buried on 8th May, 2024. The matter was admitted for investigation and intervention.

C/2024/CPR/005/AKR
A complaint was received by the Commission from a man, Y, who resides Off Owode, Oba-Ile,Akure, Ondo State on the 8th of January, 2024 against his neighbour who supposedly planted trees that overlapped into his compound because they share a fence. Y complained to his neighbour but was rebuffed. The Complainant wants the interference of the Commission to call him to order.

C/2024/WC/228/AKS
The Commission is in receipt of a complaint dated 16th June, 2024 from X alleging that Y his late father's brother is trying to take away her inheritance because she is a female child and the only child of her parents. She further alleged that he drove her and her children out of the compound and is enjoying her late father's properties. The matter was admitted for investigation and intervention.

C/2024/WGR/15/AKR
The Commission received a complaint dated 9th of February, 2024 from a woman, X of H Grace Land Estate, Oba Ile Akure, Ondo State against Y who she alleged of planning to take over the property of her late father. The complainant states that she and her younger sister have been subjected to a form of discrimination which may prevent them entitlement to their late father's property. The complainant sought the intervention of the Commission to compel the respondent to acknowledge the existence of the two female children and to stop any form of discrimination against her person and that of her sisters.

C/2024/WC/184/AKS
The Commission received a complaint dated 9th May, 2024 from X alleging XY her husband's siblings sold her husband's land without her consent and as well shared the money among them without giving a dime to her. She further alleged that she has children with ill-health around her. The matter was admitted for investigation and intervention.

C/2024/CPR/20/AKR
The Commission received a complaint dated 22nd of Feb, 2024 from a man, Y of Igoba Community, Akure, Ondo State against his landlord who has been maltreating him since he moved into his house as a tenant. The complainant claimed that he has been living in the said apartment since 2021 and has been constant in the payment of his rent on an annual basis, which is to lapse in June, 2024. But the landlord told him recently to quit the apartment without prior notice despite having some months remaining on his rent. After some days, the landlord went on to lock his room and disconnected the electricity connection to his room. The complainant sought the assistance of the Commission to help in talking to his landlord and get justice on the matter.

C/2024/ESCR/141/OS
The Commission received a Complaint dated 21st of February, 2024 from X, who resides at Abidogun, Osogbo, Osun State alleging lododo building Multiventure Company of forcefully withholding her properties.

C/2024/ESCR/9906/PL
The Commission received a complaint dated 9th January 2024 from Y of Bukuru Low-cost, Jos South, Plateau State against the respondents of Turaki in Langtang South LGA, Plateau State. Y informed the Commission that the respondents were his cousins, and they grew up together in their grandfather's house. Y claimed that their grandfather left some property for them, but the Respondents have denied him his share. The matter was admitted for investigation and intervention.

C/2024/ESCR/10,046/PL
The Commission received a complaint dated 8th February 2024 from X, aged 57 of Zawan Jos-South, Plateau State against Y on an allegation of denial of access to inheritance which occurred in Jos Plateau State. The matter was admitted for investigation and intervention.

C/2024/WC/140/AKS
The Commission is in receipt of a complaint dated 15th April, 2024 from X alleging that XY her late husband's family are in control of her late husband's properties, they are depriving her the access to make use of them and she has two children to take care of. The matter was admitted for investigation and intervention.

C/2024/CPR/10147/PL
The Commission received a complaint dated 6th March 2024 from XY, who resides at Rikkos, Jos North LGA, Plateau State. She brought the complaint on behalf of Y, her father whose life is being threatened by her uncle. She claimed the threats were coming because of a house her father and uncle (the respondent) inherited. The matter was admitted for mediation and intervention.

C/2024/WC/189/AKS
The Commission is in receipt of a complaint dated 14th May, 2024 from X alleging that Y her late husband's nephew refused her access to her husband's compound. She further alleged that he connived with her late husband's family to forcefully evict her out of her house. She wants the Commission to intervene. The matter was admitted for investigation and intervention.

C/2024/WC/191/AKS
The Commission is in receipt of a complaint dated 15th May, 2024 from X against alleging that Y her late husband's younger brother had forfeited all of their properties and stripped she and her children all the rights to her late husband's properties. She further alleged that she had reported the matter to the late husband's extended family but the family

insisted that he has the right to be the sole heir to the property. The matter was admitted for investigation and intervention.

C/2024/WC/141/AKS
The Commission received a complaint dated 15th May, 2024, from X alleging that Y her half-brother has excluded her from having a share in their late parent's properties which include; 3 houses at different locations, 5 palm fruits plantations at their village and one piece of land in the city. She further alleged that y has vowed not to give her anything citing that women do not have rights to own a property. The matter was admitted for investigation and intervention.

C/2024/WC/143/AKS
The commission is in receipt of a complaint dated 15th April, 2024 from X alleging that Y his late father's brother has refused her and her brothers inheritance of their family. She further alleged that their father's properties were shared among his wives and all the parties were satisfied, but after many years one of her uncle's started collecting rent without their consent. The matter was admitted for investigation and intervention.

C/2024/WC/140/ANS
The Commission received a complaint dated 7th May, 2024 from Y of Omogho in Orumba North LGA of Anambra state. Y alleged that he was denied his right to inheritance in the family by his siblings. Y said that all possible interventions for him to be given a portion of their inherited properties proved abortive and thus he sought the Commission's intervention to help him get what was rightfully his.

C/2024/WC/141/ANS
The Commission received a complaint dated 14th May 2024 from Y alleging that, in April 2024, he embarked on completing the shop, which was erected over twenty years ago by his mother. He alleged that he was stopped from completing the project by a group of traditionalists who claimed that, the land in which Y wanted to build on is owned by a deity. Y further stated that, all efforts to continue the work in the place failed, therefore he sought the Commission's intervention to help him regain possession of his property.

C/2024/WC/168/ANS
The Commission received a complaint dated 31st May 2024 from Y. He alleged that the family agreed to survey the inherited plots of land in 2022, but his stepbrother objected. He further alleged that his older stepbrother had earlier, in May 2024 sold four plots of land out of their

six unshared plots of land meant to be shared amongst his siblings from their late father's three wives. He claimed that all efforts to reverse the sales proved abortive.

C/2024/WC/173/ANS
The Commission received a complaint dated 5th June 2024 from X, of Awgbu in Orumba North LGA of Anambra state. X alleged that her late husband's brothers were unlawfully denying her the right to inherit her late husband's property.

C/2024/ESCR/406/AKS
The Commission received a complaint on 5th December 2024 from XY on behalf of a community. XY alleges that the community has been excluded from a compensation plan for the acquisition of their land for development purposes, despite the inclusion of neighbouring villages. XY claims that this exclusion threatens the economic and social well-being of the community and requests a thorough investigation by the National Human Rights Commission.

C/2024/ESCR/398/AKS
The Commission received a complaint dated 2nd December 2024 from Y, a resident of Ibiono Ibom L.G.A. Y alleges that an individual in his village is attempting to unlawfully claim ownership of a parcel of land inherited from his father. Y further states that this individual has threatened to use their financial influence to prevent any legal challenges to their claim.

Chapter 10

SEXUAL AND GENDER BASED VIOLENCE: IMPLICATIONS FOR THE SOCIETY

By

Ngozi Okechukwu Okore*

Introduction

The United Nations (UN) Women and European Union opined that sexual and gender – based violence (SGBV) is a global pandemic that requires fundamental and coordinated action that would guarantee the safety and security of vulnerable women and children across the world. Globally, an estimated 736 million women – almost 1 in 3 women have experienced physical or sexual intimate partner violence and non-partner sexual violence while 26% of women aged 15 and above have been subjected to intimate partner violence[1]. SGBV is one of the most significant human rights violations that have public health implications and negative impact on the social, economic and development of the society.

Accordingly, the Data Manager, Federal Ministry of Women Affairs noted in his address during the train-the- trainer workshop on the use of the GBV dashboard and reportage that since the inception of the Gender Based Violence (GBV) National Dashboard, Nigeria has recorded 27, 678 cases of SGBV between year 2020 and 2023[2].

Similarly, the statistics from the National Human Rights Commission monthly dashboard indicated a surge in sexual and gender based violence. For instance, in the month of June, 2024 the dashboard

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1 Law and Society Magazine, `SGBV, a global pandemic requiring coordinated action for security of women and children-EU, UN Women'(Abuja, 10 November 2023) <https://lawandsocietymagazine.com/sgbv-a-global-pandemic-requiring-coordinated-action-for-security-of-women-and-children-eu-un-women> accessed 16 July 2024

2 Law and Society Magazine, 'Nigeria records 27,698 Gender Based Violence Cases in 3 years-FG'(Abuja,15 November 2023) <https:lawandsocietymagazine.com/Nigeria-records-27698-gender-based-violence-cases-3-years-fg/> accessed 17 July 2024

recorded a total number of 1667 cases of child abandonment, 58 cases of rape and 600 cases of GBV[3]

SGBV occurs all over the world irrespective of age, class, ethnicity and culture. It can result in physical, sexual, economic or psychological/emotional violence which has serious implications on a woman's physical and mental health. SGBV also contributes to the cycle of poverty for many women, children and families by disempowering women, restricting their participation in the community as well as degrading their health status and economic capacity of the family as a whole[4].Consequently, SGBV is a human rights issue that has significant effects on families, communities and society thereby causing family dissolution; separation; divorce; interpersonal conflict and social isolation.

Hence, this chapter deals with SGBV and examines its implications for the society. The chapter will also highlights the legal frameworks, way forward for addressing SGBV as well as complaints received by the Commission in respect to SGBV in 2024.

Conceptual Clarification of Terms

Domestic Violence

Domestic violence often referred to as violence in intimacy or family violence is simply defined as the use and/or abuse of power and authority by force or show of force, with intent inflicting not only physical or psychological pain, but also humiliation and degradation in the family[5]. It is widely believed that the family is the heaven of love, security, safety and tranquillity. Nevertheless, the family is a site where apart from love and care, a lot of oppression, violence and exploitation are going on and the victims are often women[6].

In article 2a of the UN Draft Declaration on Elimination of Violence Against Women, domestic violence is defined as:

'Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non- spousal violence, violence related to exploitation'.[7]

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3 I Nnochiri,'We received 106,604 cases of rights abuse in June-NHRC' Vangard (Abuja, 8 July 2024) <https://www.vangardngr.com/2024/07/we-received-106-604-cases-of-rights-abuse-in-nhrc/>accessed 18 July 2024

4 ECOWAS Gender Development Centre, Understand Gender Based Violence to Better Fight it(Dakar,2011)4

5 J Effah-Chukwuma and N Osarenren 'Beyond Boundaries: Violence Against Women in Nigeria' (Project Alert on Violence Against Women, 2001) 66

6 ibid

7 ibid

Violence against women

As specified in the Protocol to African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003/2005), Violence Against Women is define as:

'all acts perpetrated against women which cause or could cause them physical, sexual, psychological and economic harm, including the threat to take such acts; or to undertake the imposition of arbitrary restrictions on or deprivation of fundamental freedoms in private or public life in peace time and during situations of armed conflicts or of war.'[8]

Sexual Violence

Sexual violence also referred to as sexual assault is a form of any sexual act, attempt to obtain a sexual act, unwanted sexual comments, or advances, or acts to traffic, or otherwise, directed, against a person's sexuality using coercion/force, by any person, regardless of their relationship to the victim, in any setting, including but not limited to home and work. In Nigeria, as indeed other parts of the world, both married and single women are subjected to various types of sexual violence both within and outside marriage.[9] Unfortunately, most of the victims of sexual violence due to stigma and discrimination do not report the crime meted against them. In such cases perpetrators go unpunished.

Gender Based Violence

The Council of Europe's Convention on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention) in article 3 provides that gender-based violence against women shall mean violence that is directed against a woman because she is a woman or that affects women disproportionately.[10]

Legal framework

International

Nigeria is a party to international human rights instruments that focused on protecting women and children from violence while promoting their rights. These include:

- Convention on the Elimination of All Forms of Discrimination against Women(CEDAW) – Adopted by the General Assembly of United

8 C Heyns and M Killander (eds), `Compendium of Key Human Rights Documents of the African Union' (Pretoria University Law Press, 2013) 63

9 J Effah-Chukwuma and N Osarenren 'Beyond Boundaries: Violence Against Women in Nigeria' (Project Alert on Violence Against Women, 2001) 85

10 Gender Matters 'Council of Europe Portal' <https://www,coe,int> accessed 13 July 2024

Nations on 18 December 1979 and entered into force on 3 September 1981.[11] Nigeria ratified CEDAW on 13 June 1985.

- Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women which was also adopted by the UN General Assembly on 6 October 1999. The Optional Protocol entered into force on 22 December 2000.[12]
- Declaration on the Elimination of Violence against Women was proclaimed by the General Assembly of the United Nations on 20 December 1993.[13]
- The 1995 Beijing Declaration and Platform for Action which provides a comprehensive policy and guideline for achieving the goals of gender equality.
- Sustainable Development Goal (SDG) 5 which seeks to achieve gender equality and women's empowerment through addressing violence and all forms of discrimination against women and girls. Nigeria is also committed to the Sustainable Development Goals (SDGs). SDG 5 specifically requires countries to:

a) End all forms of discrimination against all women and girls everywhere.

b) Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation.

c) Eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation.

Regional

The legal frameworks that protect the rights of women at the African regional level are:

Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa adopted in Maputo, Mozambique on 11 July 2003 and entered into force on 25 November 2005.[14]

Solemn Declaration on Gender Equality in Africa adopted by the AU Assembly of Heads of State and Government in Addis Ababa, Ethiopia in July 2004.[15]

The New Partnership for Africa's Development (NEPAD) Declaration adopted in 2001. NEPAD has the acceleration of women empowerment as one of its strategic objectives and ensuring that all partnerships with

11 G Melander and Others(eds), `The Raoul Wallenberg Institute Compilation of Human Rights Instruments'(Martinus Nijhoff Publishers,2012)287

12 ibid 303

13 ibid 311

14 C Heyns and M Killander (eds), `Compendium of Key Human Rights Documents of the African Union' (Pretoria University Law Press, 2013) 62

15 ibid 173

NEPAD are linked to all internally agreed development targets and the gender equality and social inclusion agenda.[16]
Economic Community of West African States (ECOWAS) Gender Policy 2003 provides at the sub – regional level the necessary structures and framework for gender mainstreaming and a strategic framework and guidelines on structures and mechanisms of the Gender Management System (GMS) for ECOWAS.[17]

Domestic Laws and Policies

Nigeria's domestic legal framework for GBV includes the Constitution of the Federal Republic of Nigeria, 1999 (as amended) which provides for fundamental rights including the right to life, the right to dignity, the right to freedom from torture, cruel, degrading and inhuman treatment, the right to freedom from discrimination, and other rights that are implicated in GBV.[18]

The Violence Against Persons (Prohibition) Act 2015 was enacted to eliminate violence in private and public life, prohibit all forms of violence against persons and to provide maximum protection and effective remedies for victims and punishment of offenders and for related matters. So far, 34 states including FCT have passed the Violence Against Persons Prohibition (VAPP) Act into law[19].
The Child Rights Act, the Penal Code and the Criminal Code are also laws that are available to address the different forms of gender-based violence. The Child Rights Act prohibits sexual intercourse with a child and also child marriage. It defines a child to be a person under the age of 18. However, 34 states have adopted the Child Rights Act 2003 as law.

In addition to the enabling laws, some states have made provisions for Sexual Assault Referral Centres (SARCs) but more effort is required to ensure fuller recognition of role of law as a foundation for comprehensive health interventions for survivors of SGBV.

Equally, in addition to laws, there is a National Gender Policy in force which seeks to promote gender mainstreaming and equality. The policy provides a 35% minimum threshold for women's participation in politics whether in appointive or elective positions. Also 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. The

16 ibid 487
17 https:// ecowas.int/special-agency/ECOWAS-gender-development-centre-egdc/ accessed 15 July 2024
18 Constitution of Nigeria 1999 as amended, S.33 - 44
19 The Violence Against Persons Prohibition Act (VAPP Act) 2015, 'Map of Adoption' <https//www.herstoryourstory.ng> accessed 17 July 2024

Government of Nigeria, made commitment to addressing and responding to the immediate and long term needs of women before, during and post conflict by developing and adopting a National Action Plan on UNSCR 1325 and other related resolutions in August 2013[20].

What are the Implications of Sexual and Gender Based Violence for the Society

Violence against women is the common problem of women living in different societies and cultures, irrespective of their income and level of education. It is not only experienced in private spheres but also in public and social spheres. Sexual and gender-based violence affects society profoundly and widely in several different ways such as:

Public Health Crisis: SGBV has a substantial impact on people's lives, communities, and healthcare systems. It is a contributing factor to this crisis. In addition to mental health issues including Post Traumatic Stress Disorder (PTSD) and despair, survivors of SGBV frequently have physical wounds and are more likely to abuse drugs or commit self-harm.

Economic Costs: SGBV has a significant financial impact on society since it raises costs for healthcare, lost productivity, employee absenteeism, legal fees, and support services. Economic gaps brought up by SGBV impede economic growth and prolong cycles of poverty.

Disruption of Education: SGBV can impede academic success and disturb educational accomplishment. Children who see or suffer SGBV may have difficulties with focus, attendance and academic performance, which can affect their educational attainment and limit their possibilities for upward social progression.

Interpersonal Interactions: SGBV damages trust in intimate partnerships, families, and communities. It also strains interpersonal interactions. It can cause social isolation, broken family relationships and communication, all of which can be detrimental to the wellbeing of both the people and communities.

Social Cohesiveness: By fostering a culture of fear, intimidation, mistrust, and social alienation, SGBV weakens social cohesiveness and the foundation of communities. Fear of violence can impede people's

20 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) 2

ability to move about freely and engage in public life, which reduces social cohesiveness and involvement.

Gender Inequality is Reinforced: SGBV both causes and maintains gender inequality. It upholds damaging gender norms and prejudices, maintaining the disparity in power between men and women. Women and gender minorities experience marginalization and disempowerment because of gender-based violence and discrimination.

Consequences for Law and Human Rights: It infringes on fundamental rights to life, liberty, dignity and personal safety. It is an impediment to justice since many survivors encounter difficulties in getting support services, and legal action. Ensuring responsibility for offenders and fortifying legal frameworks are essential measures in combating gender-based violence and protecting human rights.

Intergenerational Transmission: Young people who observe or encounter gender-based violence are more likely to use violence in their own relationships and daily lives as adults. SGBV creates intergenerational abuse patterns that affect current and future generations by sustaining cycles of trauma and violence.

In general, SGBV has extensive and widespread effects on society, including people's physical and mental health, as well as their social cohesiveness, economic standing and interpersonal connections[21]. Addressing SGBV requires a multi – faceted approach that involves the interconnectedness of tradition, customs, religion and social norms. Therefore, it requires challenging deep- rooted beliefs and stereotypes while promoting gender equality and women empowerment by creating supportive environments where survivors can seek for justice and healing.

Conclusion

Curbing sexual and gender-based violence in society is fundamental. Since SGBV infringes upon the human rights of women and girls - the right to life, security, dignity and bodily integrity. It is pertinent that this issue be addressed for the sake of both individual and societal well-being. For survivors of SGBV, there are serious emotional, psychological and physical repercussions that might include trauma, bodily harm, mental health issues and even suicide. SGBV is a cause as well as an effect of gender inequality and addressing it can aid in the

21 Akhilesh Pandey, 'Gender – Based Violence and its Impact on Society' (2024) 10 (11)IJIRT<monduniversity.academia.edu> accessed 24 July 2024

deconstruction of detrimental gender norms and the advancement of gender equality in a variety of contexts.

By addressing SGBV, it can prevent intergenerational cycles of violence, break intergenerational cycles of violence and promote economic empowerment. SGBV can hinder

Individuals' ability to work and earn a living, perpetuating cycles of poverty and dependency. By providing support services for survivors, societies can promote economic empowerment and financial independence. SGBV restricts people's freedom of movement and involvement in public life thereby undermining social cohesion and trust among communities. To address SGBV, legal frameworks must be strengthened, perpetrators must be held accountable, and survivors must have access to justice. In addition to the public health challenge, SGBV also puts a strain on social services, law enforcement and healthcare systems.

Recommendation

Social and economic fallout from SGBV can lead to a loss of livelihood and increase gender inequalities in Nigeria, hence the:

- Need for the enforcement and implementation of VAPP Act/Law by state actors
- Need for collaboration among MDAs, CSOs, NGOs, law enforcement agencies, healthcare providers and other relevant stakeholders for the fight against SGBV
- Need to strengthen access to information and justice for survivors of SGBV
- Gender repressive policies and legislations should be translated into action by abolishing them
- Government should 'walk the talk' by given women the 35% of all political posts in both the party system and governance
- SGBV related issues should be included in the budget line of the Commission

Some of the Complaint Received by the Commission on sexual and Gender-Based Violence are as follows:

C/24/WC/379/LAG

The Commission received a complaint dated 24th June 2024 from X alleging that she got married to Y in 2021. She stated that Y beats her at any slight provocation. The matter was admitted for investigation and intervention.

C/24/VG/383-384/LAG
The Commission received a complaint dated 24th June 2024 from Y against X, alleging that X has consistently denied him access to his 5-year-old daughter. X left their matrimonial home for a material amount of time and took their daughter with her, denying him the privilege of watching his daughter grow up and taking care of her as her father. The matter was admitted for Investigation and intervention.

C/24/VG/387-388/LAG
The Commission received a Complaint dated 26th June 2024 from X against Y, alleging that Y domestically abuses her. X sought the intervention of the Commission. The matter was admitted for investigation and intervention.

C/24/WC/390-394/LAG
The Commission received a complaint dated 27th June 2024 from X alleging that she was beaten and pushed out of the house last year and denied access to her children to date. The matter was admitted for investigation and intervention.

C/24/WC/395/LAG
The Commission received a complaint dated 28th June 2024 from X alleging that she separated from Y in November 2023 but since then, he has refused to collect her bride price from her family. X alleged that his refusal was stopping her from moving on in life. The matter was admitted for investigation and intervention.

C/24/CPR/396/LAG
The Commission received a complaint dated 28th June 2024, from X, alleging that Y, her husband, violated her by subjecting her to domestic abuse and threat to her life. The matter was admitted for investigation and intervention.

C/2024/WC/125/KD
The Commission received a complaint dated 25th April 2024 from X, alleging that Y, her husband of Ungwa Luka, MarabaRido, Kaduna formed the habit of beating her and left the sole responsibility of catering for their children to her and moved in with another woman. The matter was admitted for investigation and intervention.

C/2024/WC/50/JG
The Commission received a complaint dated 7th May 2024 from XY of Garki local government Jigawa State alleging that his sister was raped byY of same address. The matter is before a court.

C/2024/WC/345/OS
The Commission received a Complaint dated 27th of May, 2024 from X who resides at Ilesa, Osun State, alleging Y her husband of domestic violence. The complaint was received and investigated.

C/2024/WC/ 326-330/OS
The Commission received a Complaint dated 25th of May, 2024 from X who resides at Osogbo, Osun State, alleging Y her husband of domestic violence and abandonment of children. The complaint was received and investigated.

C/2024/WC/395-398/OS
The Commission received a Complaint dated 24th of June, 2024 from X who resides at Osogbo, Osun State, alleging Y her husband of denial of access to children. The complaint was received and investigated.

C/2024/WC/223-225/OS
The Commission received a Complaint dated 16th of April 2024 from X who resides at Osogbo, Osun State, alleging Y her husband of domestic violence and forceful child custody. The complaint was received and investigated.
C/2024/WC/236-238/OS
The Commission received a Complaint dated 16th of April 2024 from X who resides at Osogbo, Osun State, alleging Y her husband of domestic violence and forceful child custody. The complaint was received and investigated.

C/2024/WC/236-238/OS
The Commission received a Complaint dated 22nd April 2024 from X who resides in Ile-Ife, Osun State, alleging Y her husband, assaulting her and having forceful custody of their chilren. The complaint was received and investigated.

C/2024/WC/345/OS
The Commission received a Complaint dated 22nd of May 2024 from X who resides in No 53c, Adejumo Street, Redeem Area, Alekuwodo, Osogbo, Osun State, alleging that Y battered her . The complaint was received and investigated.

C/2024/WC/045-047/BAY
The Commission received a complaint from X dated 4th April, 2024 alleging that she was in a relationship with the respondent at Igbogene Community, Yenagoa which produced two children, six years and eleven months old respectively. She further alleged that on the 3rd April, 2024

the respondent physically and emotionally abused her which prompted her to leave the house with her two kids for her safety. The matter was settled by the Comission.

C/2024/WC/063-070/BAY
The Commission received a complaint from X dated 27th of May 2024, alleging that she has been cohabiting with the respondent since 2013 in Kpansia Yenagoa L.G.A of Bayelsa State and that th;eir union produced three (3) children, nine(9), seven(7) and three(3) years old respectively. She alleged further that the respondent has been both physically and emotionally abusive towards her and also that he refused to take responsibilities of catering for the upkeep and maintenance of their children. She alleged also that the respondent sometimes locks her up in their home thereby preventing her from going out to earn a living/run her business. She alleged further that the respondent also assaults neighbours whenever they try to intervene / call him to order. The complaint was admitted for investigation and the matter was settled.

C/2024/WC/127/ANS
The Commission received a complaint dated 2nd May 2024 from X, of Ifite-Awka in Awka South LGA of Anambra state. X alleged that, her husband is maltreating her and not taking up his responsibility in the family. All attempts to call him to order failed.

C/2024/WC/130/ANS
The Commission received a complaint dated 3rd May, 2024 from X of Awka-Etiti in Aniocha LGA, Anambra state. X alleged that, her husband has formed the habit of beating her over any slight issue to the extent that, he connived with his younger brothers to beat her and send her back to her father's house. All efforts to return to her matrimonial home failed.

C/2024/WC/132/ANS
The Commission received a complaint dated 3rd May 2024 from X alleging that, ever since she married her husband, he doesn't provide for the family and was in the habit of beating her and threatening her at the slightest provocation. She also said that, he was fond of threatening to kill her and go to jail. X alleged that she was no longer interested in the marriage but all efforts to leave have futile.

C/2024/WC/134/ANS
The Commission received a complaint dated 7th May, 2024 from Y alleging that, his wife was always in the habit of beating him at their residence in Umunono village, Nibo, Awka South L.G.A of Anambra

state since 2010. He also alleged that her mother was supportive of his wife's abusive behaviour. He further alleged that his wife left the marriage with their only son aged 14 years, in 2019. All efforts made to reunite with his son were futile, therefore, he sought the Commission's intervention in the matter.

C/2024/WC/138/ANS
The Commission received a complaint dated 8th May, 2024 from X alleging that, since the inception of their marriage in 2011 at Onitsha, Anambra State, her husband has been maltreating and threatening her with several weapons and even their dog. She said that, all efforts to resolve their marital issues were to no avail, making it increasingly difficult for her to cope. X sought the Commission's intervention to help stop the threats and maltreatment.

C/2024/WC/139/ ANS
The Commission received a complaint dated 10th May 2024 from Y against his wife, X of Enugwu-Ukwu. Y alleged that she always engaged him in physical fights, she sleeps around and neglects the care of their children. All attempts to call her to order failed. Y sought the intervention of the Commission to help restore order to their home.

C/2024/WC/148/ANS
The Commission received a complaint dated 22nd May 2024 from X alleging that her husband beat her often and had thrown her out of his house at Otolo, Nnewi in February 2024. X alleged that she had been the one taking care of the family yet he was not happy. She also said that, he accused her of infidelity and denied her access to the children. Every effort to gain access to the children failed.

C/2024/WC/170/ANS
The Commission received a complaint dated 4th June 2024 from X alleging that her husband beat her at the slightest misunderstanding immediately after their marriage in 2022, even during her pregnancy. She further alleged that he later abandoned her and their son at 3-3, Nkwelle, Onitsha, Anambra state in December 2023, claiming that he already had two children with another woman and that she was just his 'baby mama'. She finally, said that he threatened her and her parents through his lawyer, took custody of the son and denied her access to the only child of the union. X sought the intervention of the Commission to help her regain custody of her son.

C/2024/WC/171/ANS
The Commission received a complaint dated 5th June 2024 from X alleging that her brother-in-law seized and completed her late husband's building in Benin City, Edo state and has never given them a share of the proceeds from the tenancy even though she had a male child and two female children to cater for. She added that, in January 2024, he forced her out of her late husband's house at Nneogidi village, Agulu, Anaocha L.G.A of Anambra state. She claims that she moved to her father's compound in the same village. All efforts for her to regain possession of her late husband's property proved abortive.

C/2024/WC/172/ANS
The Commission received a complaint dated 5th June 2024 from X alleging that her marriage was based on deceit and her husband beats her constantly, at their residence at Liberty Estate, Nkwelle Ezunaka, Anambra State. She claimed that while he does not do anything for a living, his brothers opened a shop for her to sustain them but he keeps taking provisions from the shop without paying for them. She has reported the matter to his parents to caution him but he refused to take corrections. This has made it difficult for her to cope.

C/2024/WC/175/ANS
The Commission received a complaint dated 6th June 2024 from X alleging that her husband of six years, has put her through physical, mental and emotional abuse and always threatened to kill her and then take his own life. He threatened that he will falsely accuse her, which would isolate her from her family and friends. He habitually locked her out of their home at 35, Ummuchimaroad, Okigwe Imo State. Neighbours have tried to settle their dispute but to no avail. He usually blamed them for influencing her attitude. She sought the Commission's intervention to help stop the abuse.

C/2024/WC/176/ANS
The Commission received a complaint dated 6th June, 2024 from Y alleging that his girlfriend absconded with his son on 27th March 2024. The boy was born out of their short term relationship. He also alleged that, she left their son with another woman who lives at Enugwu-Ukwu,Njikoka LGA to look after him and the woman has been denying him access to his child. He added that, his child was sick and was deprived of medical care. All attempts to gain access to his child, proved abortive.

C/2024/WC/178/ANS
The Commission received a complaint dated 13th June, 2024, from X of Awka-Etiti in Idemili South LGA of Anambra state. X alleged that Y, her husband, sent her back to her father's house in 2023 and remarried 2024. X claimed that she went to picked her children but the new wife threatened her and refused to release the children to her. X sought the intervention of the Commission to help her regain access to her children.

C/2024/WC/182/ANS
The Commission received a complaint dated 19th June 2024 from X alleging that Y, her husband, abandoned her and their children at Umumbele village, Awka. She added that, Y does not cater to or provide for the family since the inception of the marriage. X later rented a house in March, 2024 and her husband forced himself into the house. All efforts to make her husband leave her house or at least start to take up his responsibilities, failed.

C/2024/WC/183/ANS
The Commission received a complaint dated 19th June 2024 from X alleging that Y, her husband, abandoned her and their four children at Enugu, Aguleri village, Anambra East LGA of Anambra State and got married to another woman who is a well-known *dibia* (native doctor). She added that, was not working when they got married but that she operated a cosmetic shop, which she used to fend for the family. She further said that, he went to their school in May, 2024 and took the children away and neither released them nor granted her access to them. All efforts to reunite with her children failed.

C/2024/CPR/122/ANS
The Commission received a complaint dated 30th April 2024 from X alleging that, Y, her boyfriend, beat her up any time she attempted to break up with him. X alleged that, on 29th April 2024 her boyfriend came to her lodge and beat her up making it the fourth occurrence. X stated that all efforts made to resolve the problem even after involving her parents were futile. She sought the Commission’s intervention to help put a stop to the abuse.

C/2024/CPR/165/ANS
The Commission received a complaint dated 31st May 2024 from X alleging that her brother beat her up on 15th May 2024 because she wanted to marry a man of her choice. X alleged that, her brother seized her phones and threatened to render her jobless. She also said that, her brother refused to let her carry her belongings from their residence at

Omagba, Onitsha, Anambra state. Every effort made for her brother to release her phones and belongings were futile.

C/2024/CPR/169/ANS
The Commission received a complaint dated 31st May 2024 from X of Umuike village, Awka South LGA, Anambra State, alleging that on 30th May 2024 at about 06:30 hrs, she heard a knock at her door and upon answering the door, she was dragged out of her apartment and mercilessly beaten and inflicted with several degrees of injuries by armed men of the local security service. X stated that they claimed to have acted on the instructions of her landlord, who had given her a quit notice in March, 2024. X sought the Commission's intervention to help her seek redress for the harsh and inhumane treatment metted out on her.

C/2024/CPR/181/ANS
The Commission received a complaint dated 14th June 2024 from X, of Isu-Aniocha, a mother of three, who alleged that her husband's siblings were maltreating and making life so difficult for her and family due to the health challenge of her husband. She further stated that the same siblings were taking undue advantage of her husband's state of health to grab and sell some of his properties without her consent. X further alleged that her husband has been forcefully separated from her as his siblings took him to Onitsha, denying her access to him without seeing to the welfare for the children. All interventions made to gain access to her husband proved abortive.

C/2024/WC/272/BSO
The Commission received a complaint dated 3rd April 2024 from X against Y of Libya Maiduguri, Borno State. X alleged that Y got her pregnant out of wedlock and refused to take responsibility for her care and that of their unborn child. X sought for the intervention of the Commission.

C/2024/WC/286/BSO
The Commission received a complaint dated 15th April 2024 from X against Y of Goni Kachallari Area Maiduguri, Borno State. X is alleged a case of lack of maintenance by Y as his wife. X sought the intervention of the commission to compel Y to take up his responsibilities toward her.

C/2024/WC/307/BSO
The Commission received a complaint dated 19th April 2024 from X against Y of Jajeri Area Maiduguri, Borno State. X is alleged a case of Physical Violence and Threat to Life against Y. X sought for the

intervention of the commission to help put a stop to the violent attacks and threat to her life.

C/2024/WC/306/BSO

The Commission received a complaint dated 19th April 2024 from X against Y of Bulama Adamu Bayan Qaurters Area Maiduguri, Borno State. X is alleged cases of Lack of Maintenance and Inhuman Treatment by Y. X sought for the intervention of the commission.

C/2024/WC/308/BSO

The Commission received a complaint dated 22nd April 2024 from X against Y of Fori Area Maiduguri, Borno State. X is alleged a case of Lack of Maintenance and of Abandonment by Y. X sought for the intervention of the commission.

C/2024/CPR/37/KGS

The Commission received a complaint dated 9th November, 2024 from X, who alleged that she became pregnant by Y out of wedlock. X further stated that after giving birth, Y had repeatedly abused her, even threatening to kill her if she married another man. She also claimed that despite her requests for Y to stay away, he has continued to harass her, which has led to her losing her job. X has sought the Commission's intervention to restrain Y from further abuse and from approaching her. The complaint was admitted for investigation.

C/2024/WC/402/AKS

The Commission received a complaint dated 5th December 2024 from X, who alleged that her husband physically abuses her, including beating her during arguments. She further stated that he frequently threatens to kill her and then go to jail. X also mentioned that her husband verbally abuses her and her family. She requested the Commission's intervention to prevent her husband from physically abusing her.

C/2024/WC/373/AKS

The Commission received a complaint dated 11th November 2024 from X, a resident of Ifa Ikot Okpon in Uyo L.G.A., who alleged that her stepbrothers have sold their father's property without her knowledge or consent, and without involving other siblings. She expressed concern that they intend to sell the family's residential compound and fears she and their aged mother will be excluded from any share or compensation.

C/2024/WC/387/AKS

The Commission received a complaint from Y dated 22nd November 2024 alleging that he has been denied access to his inheritance.

C/2024/WC//AKS
The Commission received a complaint dated 11th November 2024 from Y against his brother. Y alleges that his brother has forfeited his own share of the family inheritance due to his absence from the family for several years while seeking employment opportunities. Y is requesting the Commission's intervention.

C/2024/WC/401/AKS
The Commission received a complaint from X dated 4th December 2024 alleging that her husband's brothers are denying her access to her husband's inheritance. They claim that she, as a woman, has no right to inherit property.

C/2024/WC/336/AKS
The Commission received a complaint from X dated 8th October 2024 alleging that her stepbrother is denying her access to her late father's inheritance. He claims that she, as a woman, has no right to inherit property.

C/2024/WC/417/AKS
The Commission received a complaint dated 19th December 2024 from X, a 24-year-old resident of Ibesikpo Asutan L.G.A. (originally from Okobo L.G.A**.).** X alleges that her father's female companion, who moved into their home last year, is maltreating her younger siblings and threatening her. X claims that she and her siblings no longer feel safe living in their father's house.

C/2024/WC/378/AKS
The Commission received a complaint dated 13th November 2024 from X, a resident of Ikono L.G.A. X alleges that her husband's family members are falsely accusing her of causing his death. She states that her husband passed away on 4th February 2024 after a prolonged illness, and that the entire family was aware of his condition and the efforts made to treat him. X further claims that her husband's family is attempting to exclude her and her children from the burial arrangements.

C/2024/WC/403/AKS
The Commission received a complaint dated 5th December 2024 from X against her cousin, **Y.** X alleges that Y is threatening her life over a dispute regarding an access road to her late father's compound. Y claims that the access road is part of his inherited land and has attempted to fence it off, despite it being used by many other residents.

C/2024/WC/344/AKS
The Commission received a complaint dated 14th October 2024 from X against Y, the father of her two children. X alleges that Y habitually beats her without provocation and falsely accuses her of infidelity. X claims that Y himself is engaged in extramarital affairs.

C/2024/WC/419/AKS
The Commission received a complaint dated 20th December 2024 from X against her biological children, XY**.** X alleges that XY are denying her access to the rental income from a property she jointly built with her late husband. X further claims that they sold a piece of her late husband's land for N3,500,000 and did not provide her with any share of the proceeds. XY claim that she has no right to inherit her late husband's property.

C/2024/WC/372/AKS
The Commission received a complaint dated 11th November 2024 from X against Y, the father of her three children. X alleges that she is being maltreated by Y, with whom she cohabits. X claims that Y verbally and publicly abuses and harasses her.

C/2024/WC/385/AKS
The Commission received a complaint dated 20th November 2024 from X against Y, her former partner. X alleges that Y impregnated her and is refusing to take responsibility for the pregnancy. X states that Y pressured her to have an abortion, which she refused.

C/2024/WC/393/AKS
The Commission received a complaint dated 27th November 2024 from X against Y, the father of her children. X alleges that Y has forcibly evicted her from their shared residence, leaving her homeless.

C/2024/WC/422/AKS
The Commission received a complaint dated 27th December 2024 from Y against X. Y alleges that X, after a single sexual encounter, falsely claimed to be pregnant with his child. Y states that he was subsequently pressured by X and her family to assume responsibility for the pregnancy. X gave birth six months after making this claim. Y is requesting a DNA test to establish paternity.

C/2024/WC/341/AKS
The Commission received a complaint dated 11th October 2024 from X against Y, the father of her children**.** X alleges that Y habitually physically

and verbally abuses her, including beating her and threatening her with eviction. Y also accuses her of infidelity and disrespect.

C/2024/WC/423/AKS
The Commission received a complaint dated 29th December 2024 from X against her husband. X alleges that her husband, after 34 years of marriage, frequently and falsely accuses her of extramarital affairs. She further states that he physically abuses her, including beating her with a belt and other objects, and has threatened to kill her. On December 28th, 2024, he allegedly beat her with a stick and an iron and subsequently locked her out of her business premises at their residence in Mbiaobong, Uyo.

C/2024/WC/335/AKS
The Commission received a complaint dated 7th October 2024 from Y against his stepbrother. Y alleges that his stepbrother is denying him access to his share of the land inherited from their late father. Y is a resident of Ikot Ada-edem in Ibiono Ibom Local Government Area, Akwa Ibom State.

C/2024/WC/386/AKS
The Commission received a complaint dated 21st November 2024 from X, a widow residing in Uyo L.G.A. X alleges that her late husband's siblings have unlawfully occupied their family home in Ibesikpo Asutan, denying her and her child access to the property. They claim that her child, being female, has no right to inherit the property.

C/2024/WC/357/AKS
The Commission received a complaint dated 29th October 2024 from X, a resident of Iboko Offot in Uyo**.** X alleges that her partner of nine years habitually physically and verbally abuses her, often in public. X states that she wishes to end the relationship but fears for her safety and her business due to her partner's threats of violence and retaliation.

C/2023/WC/409/AKS
The Commission received a complaint dated 11th December 2024 from X, a resident of Uyo L.G.A. X alleges that her son is refusing to return property entrusted to him while she was away, claiming ownership of the items.

C/2024/WC/407/AKS
The Commission received a complaint dated 9th December 2024 from X, a resident of Ekititam in Itu L.G.A**.** X alleges that her husband's family members are falsely accusing her of causing his death. She states that

her husband passed away while attending a family gathering in Ekpene Ukim, Uruan. X further claims that her husband's family transported his body to a local mortuary without her knowledge or consent and are proceeding with burial arrangements without her or her children's involvement. They claim that her husband's property now belongs solely to them.

C/2024/WC/414/AKS
The Commission received a complaint dated 18th December 2024 from X. X alleges that her husband's siblings are accusing her of causing his death, which occurred on 23rd November 2024 in Nung Udoe, Ibesikpo Asutan. X further states that her husband's siblings have seized his provision shop and their shared residence, and have threatened her with harm.

C/2024/WC/399/AKS
The Commission received a complaint on 2nd December 2024 from XY on behalf of X**.** X alleges that her brothers have unlawfully seized all of their father's property following his demise in March 2018. These properties are located at various addresses, including Annua Obio Offot, Usana Udo Street, and off Akpan Andem Market. X further alleges that her father instructed that the properties be used for her benefit during her lifetime. However, X is currently critically ill and hospitalized, and her brothers are denying her access to the necessary funds. This complaint raises concerns regarding the violation of X's right to inheritance and potential inhumane and degrading treatment.

C/2024/WC/368/AKS
The Commission received a complaint from X on 16th January 2025 against her husband, Y, who hails from Nsit Ubium L.G.A. X alleges that Y physically and emotionally abused her throughout their marriage, resulting in the loss of six pregnancies. On 22nd September 2024, Y allegedly evicted X from their marital home, accusing her of infidelity. X claims to have been denied access to her belongings for six weeks and requests the Commission's intervention regarding this alleged domestic violence and threat to her safety.

C/2024/WC/332/AKS
The Commission received a complaint from X against her brother, Y, on 2nd October 2024. X alleges that Y has unlawfully seized all of their father's property on the grounds that she, as a female, has no right to inherit. This complaint raises concerns regarding the violation of X's right to inheritance and potential discrimination based on gender.

C/2024/WC/361/AKS
The Commission received a complaint from X, a resident of No. 9 Teacher Okon Edet Street, Obio Etoi, Uyo, on 21st October 2024. X alleges that her two brothers have unlawfully seized all of their father's property and are also denying her access to property inherited from their mother. This complaint raises concerns regarding the violation of X's right to inheritance and potential discrimination based on gender.

C/2024/WC/348/AKS
The Commission received a complaint from X against Y on 15th October 2024. X alleges that her stepbrother has denied her access to her father's property on the grounds that she is female. This complaint raises concerns regarding the violation of X's right to inheritance and potential discrimination based on gender.

C/2024/WC/412/AKS
The Commission received a complaint from X on 12th December 2024. X alleges that her uncle has unlawfully seized property that was gifted to her by her grandmother. X is requesting the Commission's intervention regarding this alleged violation of her right to inheritance.

C/2024//WC/244 - 248/EDO
The Commission received a complaint dated 8th October 2024 from X against her husband, Y. X alleged that Y has subjected her to domestic violence and has abandoned his responsibilities towards her and their four children. The matter was admitted for investigation and intervention.

C/2024/WC/224 - 227/EDO
The Commission received a complaint dated 27th September 2024 from X against her late husband's family. X alleged that her late husband's family was attempting to forcibly evict her from the home she built with him in Lagos and relocate her to Benin. This action may constitute harmful traditional practices and inhuman treatment. The matter was admitted for investigation and intervention.

C/2024/WC/303-306/EDO
The Commission received a complaint dated 21st October 2024 from X, a resident of No. 33 Old Unwede Road Agide Onije Igbanke, Edo State, against her husband, Y. X alleges that Y physically and verbally abuses her and has repeatedly threatened her life. X further states that Y has abandoned his parental and marital responsibilities. The matter was admitted for investigation and intervention.

C/2024/WC/305-306/EDO
The Commission received a complaint dated 6th December 2024 from X against her husband, Y. X alleges that Y physically and verbally abuses her and has threatened to kill her. The matter was admitted for investigation and intervention.

C/2024/WC/231-233/EDO
The Commission received a complaint dated 30th September 2024 from X against her husband, Y. X alleges that she has been subjected to domestic violence by Y throughout their 22-year marriage, during which they had two children. The matter was admitted for investigation and intervention.

C/2024/WC/196-199/EDO
The Commission received a complaint dated 2nd September 2024 from X against her husband, Y. X alleges that Y persistently subjects her to both physical and verbal abuse. The matter was admitted for investigation and intervention.

Chapter 11

EDUCATION AND THE RIGHTS OF THE CHILD: ISSUES AND SOLUTIONS

By

Hope Begha*

Introduction

Education is a fundamental human right encompassing the holistic development of individuals and the provision of knowledge, skills, values, and attitudes necessary for effective participation in society. Education transcends formal schooling, encompassing non-formal and informal learning. Its significance for children lies not only in facilitating cognitive and social development but also in enabling them to reach their full potential and actively contribute to society. The right to education is upheld in various international instruments, notably the United Nations Convention on the Rights of the Child (UNCRC). This paper examines the intersection of education and the rights of the child, exploring key issues and proposing solutions within the context of international, regional, and national legal frameworks.

Conceptual clarification

Before delving into the main discussion, it is essential to clarify key concepts. They are as follows:

Education

The word education is derived from two Latin words (Educare, educo, educavi, educatum), which means to “bring up”,” to rear”, “to guide ‘to direct” “, to educate”. The second Latin word from which education derived is educere (educo, educere, eduxi, eductum), which means “to draw out,” “to lead out,” “to raise,” “to bring up,” or “rear a child”[1]. According to these Latin words, it can be inferred that education can encompass activities such as bringing up, rearing, guiding, directing, and drawing out. All of these are responsibilities that must be carried out by individuals with superior knowledge, which in this case, would be the adults in the society.

The responsibility of nurturing a child extends far beyond formal schooling and permeates various aspects of community life. Education,

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1 A Silvance, Introduction to Higher Education 2023.*The concept of education*. <https://pressbooks.pub/jooust/chapter/1-2-the-concept-of-education>.Acces on 22 July 22, 2024

in its broadest sense, encompasses not only the process of learning but also the practical application and outcomes of that knowledge. This holistic view of education aligns with the African proverb, "It takes a village to raise a child,"[2] which emphasises the crucial role of community in a child's development. This perspective underscores that education is not merely confined to classrooms but is a lifelong journey that unfolds within the rich tapestry of societal interactions and experiences.

Apart from the origin of education, other contemporary definitions of education will be of relevance to the topic of discussion.

Abeka 2023 defines the concept of education for children as a process of cultural transmission and renewal. It is the process whereby the adult members of a society carefully guide the development of infants and young children, initiating them into the culture of the society.[3]

Education, according to Onebunne 2022 is “the process of facilitating learning, or the acquisition of knowledge, skills, values, morals, beliefs, habits, and personal development”[4]. Educational methods encompass teaching, training, storytelling, discussion, directed research, etc.

UNESCO defines education as "a fundamental human right and essential for the exercise of all other human rights[5]. The Right to education derives its legal basis from Article 26(1) of The Universal Declaration of Human Rights states that 'Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available, and higher education shall be equally accessible to all based on merit[6].

Understanding the significance of education is essential in addressing poverty and hunger, and in fostering lasting, inclusive, and equitable economic growth and sustainable development.[7]

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2 A Ogunyemi, 'The Relevance of the African Traditional Education System to Contemporary Education' (2020) 8(1) Journal of Education and Practice 45, 48.

3 Ibid

4 J I Onebunne, 'Education in the 21st Century' (2022) 7(1) Nnadiebube Journal of Education in Africa 24

5 UNESCO, 'Education 2030: Incheon Declaration and Framework for Action for the Implementation of Sustainable Development Goal 4' (UNESCO Digital Library 2015) <https://uis.unesco.org/sites/default/files/documents/education-2030-incheon-framework-for-action-implementation-of-sdg4-2016-en_2.pdf> accessed on 20 July 2024

6 Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A(III) (UDHR) art 26(1) <https://www.un.org/en/about-us/universal-declaration-of-human-rights> accessed on July 20 2024

7 Youth and Education.< https://pressbooks.pub/jooust/chapter/1-2-the-concept-of-education>

Rights of the Child

The United Nations Convention on the Rights of the Child (UNCRC) of 1989 defines a child as any individual below the age of eighteen. The rights of the child are universal entitlements for individuals in that age bracket. The concept is based on what characterises their physical and mental immaturity, as well as their vulnerability.

The key principles established by UNCRC under pining children's rights

- Non-discrimination (Article 2): All rights apply to all children without exception.
- Best interests of the child (Article 3). The child's best interests must be a primary consideration in all actions concerning children.
- Right to life, survival, and development (Article 6): Children have the inherent right to life, and states must ensure, to the maximum extent possible, their survival and development.
- Right to be heard (Article 12): Children have the right to express their views freely in all matters affecting them, and these views should be given due weight following the child's age and maturity[8].

Children's rights typically fall into four categories:

a) Survival rights: The right to life and to have the most basic needs met (e.g., food, shelter, adequate living standards).
b) Development rights: Rights enabling children to reach their fullest potential (e.g., education, play, leisure).
c) Protection rights: Rights that safeguard children from all forms of abuse, neglect, and exploitation.
d) Participation rights: Rights allowing children to take an active role in their communities and nations.

These concepts of children's rights firmly assert that children are not the property of their parents, nor are they passive recipients of care and protection. Instead, they are individuals with their rights and obligations, tailored to their stage of development.

Legal Framework

The right to education and the rights of the child are inextricably linked in international/regional and domestic human rights law, creating a comprehensive framework that obliges the state to protect and support children's rights, including the right to education.

8 UN Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3 (UNCRC) arts 2, 3, 6, 12

International Framework

- The Universal Declaration of Human Rights (UDHR), adopted in 1948, was the first Human Rights instrument adopted to provide for education [9]
- Article 26. Proclaims that "Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory."[10]
- The cornerstone of international child rights law is the United Nations Convention on the Rights of the Child (UNCRC)[11].
- Article 28 recognises the child's right to education, underscoring that education is free and compulsory from the primary to the secondary level.
- The International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted in 1966, provides a more detailed exposition of the right to education in Article 13.[3] It states that education shall be directed towards the full development of the human personality and sense of dignity, and shall strengthen respect for human rights and fundamental freedoms[12].
- The ICESCR Committee's General Comment is reinforced by Article 13, which elaborates on the right to education. It emphasises that education must be available, accessible, acceptable and adaptable [13].
- UNESCO Convention against Discrimination in Education (1960)[14]. This convention aims to eliminate all forms of discrimination and promote equal educational opportunities.
- Convention on the Rights of Persons with Disabilities (CRPD) (2006) Article 24 of the CRPD, adopted in 2006, recognises the right of persons with disabilities to education without discrimination and based on equal opportunity.[15]It calls for an inclusive education system at all levels and lifelong learning[16].
- International Labour Organisation (ILO) Conventions. (1973 entered into force 19 June 1976

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9 Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A(III) (UDHR) art [number]

10 (1) Ibid art 26

11 UN Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3 (UNCRC)

12 International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3 (ICESCR) art

13 ibid art 13

14 UNESCO, Convention against Discrimination in Education (adopted 14 December 1960, entered into force 22 May 1962) 429 UNTS 93

15 Convention on the Rights of Persons with Disabilities (adopted 13 December 2006, entered into force 3 May 2008) 2515 UNTS 3 (CRPD)

16 Ibid art 24

- Several ILO conventions focus on the impact of child labour on education.
- The ILO Minimum Age Convention (No. 138) and the Worst Forms of Child Labour Convention (No. 182) are particularly relevant to this discussion. [17]These conventions aim to protect children from exploitation that interferes with their education[18].
- Other optional Protocols focus on addressing issues that can impact a child's access to education, including the protocols on the Involvement of Children in Armed Conflict, the Sale of Children, Child Prostitution and Child Pornography and Communications Procedure.
- The Sustainable Development Goals (SDGs), although not legally binding, SDG 4 particularly provide a global framework on quality and inclusive education[19]

Regional Frameworks

The regional framework also protects the rights of the child to education. These include

African Charter on Human and Peoples' Rights (Banjul Charter), adopted in 1981,

It provides a general right to education in Article 17.[20]

The African Charter on the Rights and Welfare of the Child (ACRWC)(1990)[21]

The ACRWC is the main instrument for children's rights in Africa. Drawing inspiration from the CRC and ACWC, the Child's Rights Act incorporates all four principles governing children's rights. – Non-discrimination, best interest of the child, life survival and development and child participation.

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17 ILO Minimum Age Convention: ILO Minimum Age Convention (No 138) (adopted 26 June 1973, entered into force 19 June 1976)

18 ILO Worst Forms of Child Labour Convention: ILO Worst Forms of Child Labour Convention (No 182) (adopted 17 June 1999, entered into force 19 November 2000) <https://normlex.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C182> accessed 23 July 2024

19 UN General Assembly Resolution: UNGA Res 70/1 (25 September 2015) UN Doc A/RES/70/1 <https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_70_1_E.pdf> accessed 23 July 2024

20 African Charter on Human and Peoples' Rights: African Charter on Human and Peoples' Rights (adopted 27 June 1981, entered into force 21 October 1986) 1520 UNTS 217 (Banjul Charter)

21 African Charter on the Rights and Welfare of the Child: African Charter on the Rights and Welfare of the Child (adopted 11 July 1990, entered into force 29 November 1999) CAB/LEG/24.9/49

Article 11 addresses education reflecting the UNCRC's provisions on education with a focus on preserving and enhancing positive African morals, traditional values and culture.

Municipal/Domestic Framework

Nigeria has several policies and laws aimed at promoting education and protecting children's rights, including:

Constitution of the Federal Republic of Nigeria (1999)[22]

While the Right to education in Chapter II of the Constitution is not justifiably enforceable, it directs the state to provide free, compulsory and universal primary education.

Child Rights Act in Ratified and Domesticated (2003)[23]

The United Nations Rights Act domesticates the UN Convention on the Rights of the Child. It provides for free, compulsory and universal basic education and protects children from all forms of exploitation that may interfere with their education.

The Universal Basic Education (UBE) Act of 2004

This Act mandates free and compulsory education for the first nine years of schooling.[24]

The National Human Rights Commission (NHRC) Act

In line with the mandate of the Commission to promote and protect human rights has also established the Right to Education as a Thematic Area of focus which deals with child-related complaints and encourages enrolment of children in schools and activates partnerships to see that the culture of human rights is promoted and upheld in schools.

The right to education is protected by both national and international legal frameworks. The Child's Rights Act was ratified and implemented in Nigeria in 2003, and so far, 34 out of 36 states have fully implemented it. In addition to the Child Rights Act of 2003, the government has implemented various policies and interventions to enhance the education sector in Nigeria. The most recent policy is the 2023 policy.

National Policy on Education 2023

The most recent National Policy on Education in Nigeria is the 2023 National Policy on Education. This policy was officially approved by the

22 Constitution: Constitution of the Federal Republic of Nigeria 1999, ch II

23 Child Rights Act: Child Rights Act 2003 (Nigeria)

24 Universal Basic Education Act: Compulsory, Free, and Universal Basic Education Act 2004 (Nigeria)

Federal Executive Council on July 5, 2023, under the administration of President Bola Tinubu. Here are some significant highlights of this latest policy:

1. Revision: It's a comprehensive revision of the previous policies, aiming to address current challenges and align with global educational trends.
2. Structure: The policy maintains the 1-6-3-3-4 education structure, which includes one year of pre-primary education, six years of primary, three years of junior secondary, three years of senior secondary, and four years of tertiary education.
3. Focus on Technology: There's a strong emphasis on integrating technology into education at all levels, reflecting the digital age we're living in.
4. Skills Development: The policy places a greater emphasis on skills acquisition and entrepreneurship education to address youth unemployment.
5. Teacher Education: It includes comprehensive plans for improving teacher education and professional development.
6. Inclusive Education: The policy reinforces commitment to inclusive education, ensuring access for students with special needs and those in difficult circumstances.
7. Early Childhood Education: There's increased attention to early childhood care and education.
8. Higher Education: The policy aims to enhance the quality and relevance of higher education, with a focus on research and innovation.
9. Lifelong Learning: It emphasises the importance of continuous learning and adult education.
10. Quality Assurance: The policy introduces more robust quality assurance mechanisms across all levels of education.

This policy from 2023 reflects the latest official position on education in Nigeria. Its goal is to tackle present-day challenges and equip Nigerian students for the changing global environment. Like any new policy, its success will rely on proper implementation and continuous evaluation.

Education and Children's Rights in Nigeria

Education in Nigeria relies on a triad consisting of domestic Formal (Western) Education, non-formal) and religious (informal)[25]. Formal education refers to the structured education system provided by the state, which includes primary, secondary, and tertiary institutions. Such

25 Obanya PAI, 'Development-Oriented Higher Education' (2003) 6(1) The Nigerian Social Scientist 17

schools have standardised curricula set by educational authorities and are organised into levels (primary, secondary, tertiary) corresponding to specific age groups. Students receive certifications and diplomas upon completion of each level. Governed by the Federal and state education ministries and bodies such as the Nigerian Educational Research and Development Council (NERDC).

Non-formal education encompasses educational activities that occur outside the formal school system. These activities are often designed to meet the learning needs of specific groups such as out-of-school children, adults, and marginalised communities. Such programs are often flexible in terms of scheduling and curriculum and are focused on practical skills, literacy, and vocational training. Such programs are often organised by NGOs, community groups, and government initiatives.
Religious education, on the other hand, refers to instruction provided by religious institutions, including Islamic and Christian schools, which often combine religious teachings with general education.

The consequence of educating a child stands as an unflinching foundation of societal development and cannot be exaggerated. Education is crucial not only for cognitive and social development but also for realising their values, which are necessary for their full potential and successful participation in society. Anthony Lake, Executive Director of UNICEF, emphasised that "Education is the key to a better life for every child and the foundation of every strong society – but far too many children are still being left behind. To realise all our development goals, we need every child in school and learning."
The education system in Nigeria is faced with a myriad of challenges, as outlined below

Poor Access to Education: Despite progress in the field of education in Nigeria, a concerning number of children continue to face barriers to accessing basic education. UNICEF reports that Nigeria has the highest number of out-of-school children globally, with an estimated 10.5 million children aged 5-14 not receiving formal education.[26] One of the primary contributing factors to this disparity is the obvious contrast between urban and rural areas. In rural regions, schools are often sparse, and the considerable distances that children must travel act as a deterrent to regular attendance.

Poor Quality of Education/ Infrastructure: The quality of education in Nigeria varies greatly. One of the critical issues affecting children's education is poor and inadequate infrastructure. According to World

26 UNICEF Website: UNICEF Nigeria, 'Education' (UNICEF) <https://www.unicef.org/nigeria/education> accessed 23 July 2024.

Bank statistics, many schools lack basic infrastructure such as good classrooms, toilets, and clean water. There is a shortage of resources, insufficient teaching materials, and poorly trained and underpaid teachers.[27]These issues undermine the effectiveness of education, leaving many students lacking critical skills and information.[28]

Gender Disparity

Gender disparities remain a significant issue in northern Nigeria, characterised by higher dropout rates among girls, especially in rural areas. These disparities stem from various barriers such as early marriage, economic challenges, deeply rooted cultural beliefs, and religious norms that prioritise boys' education. These issues not only impact the educational opportunities of girls but also have broader implications for the overall social progress and development in Nigeria[29].

Lack of Inclusive Practices: Nigeria faces significant challenges in implementing inclusive education, especially for children with disabilities and those from marginalised communities. Key obstacles include insufficient infrastructure, as many schools lack facilities to assist physically disabled students. Additionally, there is a shortage of teachers trained in special needs education and inclusive methods. Societal stigma and unfavourable attitudes towards disabilities also significantly impact the enrollment and retention of children with special needs. Furthermore, inconsistent implementation of supportive policies, due to resource restrictions and limited funding, hinders efforts to provide inclusive education[30].

Impact of Conflict and Insecurity: The level of insecurity in the Northern region of Nigeria has significantly contributed to the high number of out-of-school children. The frequent abduction and kidnapping of students by groups such as Boko Haram and bandits have exacerbated the problem. These incidents result in the displacement or

27 World Bank Report: World Bank, 'Nigeria - Governance and Finance Analysis of the Basic Education Sector' (2015) <https://ideas.repec.org/p/wbk/wboper/23683.html> accessed 24 July 2024.

28 Ibid.

29 British Council Report: British Council, 'Girls' Education in Nigeria: Issues, Influencers and Actions' (2014).

30 A R Adenrele, 'Inclusive Education in Nigeria—A Myth or Reality?' (2015) 2(5) Sky Journal of Educational Research 3 <https://www.researchgate.net/publication/276498414_Inclusive_Education_in_Nigeria-A_Myth_or_Reality> accessed 23 July 2024.

recruitment of children by armed groups, disrupting their education and exposing them to violence and trauma[31].

Child Labour and Exploitation: Child labour is a widespread problem in Nigeria, with many children involved in street begging and hawking and various types of work that disrupt their education. Apprenticeship has a huge impact on children in the country's South East by requiring them to work for their employers without acquiring a formal education, denying them the option to attend primary and secondary schools as their parents and guardians intended.[32]Financial difficulties compel families to rely on their children's earnings, perpetuating the cycle of poverty and lack of education.[33]

Digital Divide and Technology Access: The growing influence of technology in education has created a notable disparity in digital access and equality in Nigeria's digital landscape. Many children lack access to the internet, leading to a digital gap and inequality, especially for those in rural areas who do not have access to computers, internet connectivity, and digital learning resources. This divide became more evident during the COVID-19 pandemic when many schools transitioned to remote learning methods.

Parental Neglect: Parents and guardians are obligated to oversee the education of their children. While some parents are wholeheartedly committed to guiding their children through their educational journey, others do not prioritise their children's educational needs and are less engaged.

Solutions and Interventions

There are many ways to revitalise and revamp the Nigerian educational sector for the best interest of the child. Below are some

Enhancing Access to Education: Improved access to education can be achieved through government and stakeholders' investment in building and refurbishing schools, particularly in underserved areas. Additionally, programs that provide transportation or boarding facilities can help children in remote regions attend school. The establishment of the National Commission for Almajiri has been suggested to address the issue of out-of-school issues comprehensively in Northern Nigeria[34].

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31 Internal Displacement Monitoring Centre, 'Nigeria' <https://www.internal-displacement.org/countries/nigeria> accessed 23 July 2024.

32 S Alimi , 'Out-of-School Children in Nigeria: The Struggle for Education and the Solutions' (African Edutimes, 30 April 2024) .

33 M Freeman, 'The Future of Children's Rights' (2000) 14 Children & Society 277.

34 Almajiri and Out-of-School Children Act 2023, s 5

Quality of Education: The Nigerian government is the main financial supporter of education and should provide more funding to improve the quality of education in the country. Private schools are expensive and not affordable for most Nigerian parents. Thus, enhancing teacher training and remuneration, developing relevant curricula, and providing sufficient teaching materials are essential steps to improve the quality of education. Regular assessments and accountability measures can help ensure that educational standards are met.

Strengthening Infrastructure and Resources: The infrastructural dearth in Nigerian schools can be addressed by the government investing in school infrastructure, including classrooms, sanitation facilities, and learning materials. If this is done rightly, it could drastically reduce the number of out-of-school children. In addition, government partnerships with the private sector and international organisations can help mobilise additional resources for education.

Gender Disparity: Policies and programs that address gender disparities, such as scholarships for girls, gender-sensitive curricula, and community awareness campaigns, can help reduce the gender gap in education. The Girls' Education Project GEP3 by UNICEF has significantly worked to increase the number of girls' enrolment and retention in formal and informal education in Nigeria. This is done in collaboration with the Federal Ministry of Education through scholarships, mentorship, and community mobilisation.[35]

Successful Polices and Initiatives to Strengthen Inclusive Education: To enhance inclusive education in Nigeria, comprehensive teacher training programs for both pre-service and in-service educators are essential. These programs will equip teachers with the skills needed to implement inclusive practices. School buildings and facilities should be adapted to accommodate students with diverse needs. Additionally, the use of assistive technology in classrooms is crucial for enhanced learning, especially with the increasing reliance on technology.

Impact of Conflict and Insecurity: Effective education for children can only happen in a safe and secure environment. It is therefore essential for the government and stakeholders to implement strong security measures and infrastructure that prioritise the well-being of children, as well as safe routes to school. Additionally, providing psychosocial

< https://www.ncaoosce.gov.ng/> accessed 24 July 2024.

35 UNICEF, 'Girls' Education Project (GEP)' (UNICEF) <https://www.unicef.org/nigeria/reports/girls-education-project-phase-3-gep3> accessed 24 July 2024.

support and education during emergencies can help mitigate the impact of conflict on education. The Safe Schools Declaration (SSD)is an intergovernmental political commitment aimed at protecting students, teachers, schools, and universities from attack during armed conflict[36]. SSD was implemented in 2014 by President Muhammad Buhari, and it seeks to safeguard schools in areas affected by conflict and offer educational options for displaced children.

Combating Child Labour and Exploitation: The menace of turning little children into providers can be greatly abridged if there are Economic support programs for families, such as conditional cash transfers and home-grown School Feeding Programs, which provide meals to primary school children can be significantly reduced. Legal actions that can be instituted against exploitative practices should be put in place to protect children's rights.

Leveraging Technology for Education: To bridge the digital gap, the Nigerian government needs to increase investment in ICT infrastructure and digital literacy programs to improve educational opportunities, particularly in public schools. E-learning initiatives that offer digital learning resources to students and teachers can supplement traditional classroom teaching and enhance access to high-quality educational materials

Community and Parental Engagement: Awareness creation and community-driven educational campaigns can enhance the value placed on education. The Mothers' Association initiative in northern Nigeria has been effective in promoting girls' education through community advocacy and support.[37] This initiative can be adopted by parents in other parts of Nigeria.

Conclusion

Ensuring access to quality education in Nigeria while respecting children's rights faces challenges such as poverty, discrimination, inadequate infrastructure, and a lack of qualified teachers. Addressing these issues requires increased investment in education, policies promoting inclusive education for all children, improved teacher training,

36 Federal Ministry of Education Nigeria, 'Nigeria's Safe Schools Declaration Commitments' (2015) <https://education.gov.ng/safe-schools-declaration/> accessed 24 July 2024.

37 U Eliane and others, 'Girls' Education and Gender Equality' (2014) DFID Education Rigorous Literature Review 62 <https://www.researchgate.net/publication/263425162_Girls'_education_and_gender_equality_Education_Rigorous_Literature_Review accessed 26 July 2024.>

and strengthened child protection measures. By maintaining a rights-based approach. Fostering collaboration between government, civil society, the private sector, and international partners, Nigeria can build an inclusive, equitable, and high-quality education system that empowers its children and youth to become active, productive citizens in an increasingly globalised world.

Some of the complaints received by the Commission on Education and the Right of the Child are as follows:

C/2024/ESCR/003/KW
The Commission received a complaint dated 6th February, 2024, from X, alleging XY, the C Division Police Station and Government Secondary School Alapa on the issues of not wanting to give her and two others their educational certificate. She further alleged that she reported the matter to the police, and they did nothing about the matter. The matter was admitted for investigation and intervention.

C/2024/WC/9925/PL
The Commission received a complaint dated 12th January 2024 from Y of Bukuru in Jos South LGA of Plateau State, against X, the mother of his son of Bauchi Ring Road, Jos North LGA, Plateau State. Y stated that their son lives with him and goes to school from his home and spends holidays with X. Y alleged that when X took their son, who is in SS2, for the Christmas holidays, she refused to return him so that he could resume school, claiming that she wanted to change his school. The matter was admitted for investigation and intervention.

C/NHRC/OYO/2024/004/ESCR
The Commission received a complaint dated 28th February 2024 from Y, who resides at NO. 7 Success Street Ariyibi Apete, Ibadan. Y alleged XY of the alleged denial of access to education. The matter was admitted for investigation and intervention.

C/2024/WC/10919/PL
The Commission received a complaint dated 16th October, 2024, from X, who is 27 years old whenever and resides beside Masalacin Centre, Dutse Uku, Jos North, Plateau State, against her husband, who is 32 years old and resides at the same address. They have a child who is 8 months old. She alleged that the Respondent barely provides for them, and she asks him for anything, but he ends up beating her and still does not provide. The matter was admitted for investigation and intervention.

C/2024/WC/10998-10999/PL
The Commission received a complaint dated 7th November 2024 from X, who resides Opposite COCIN Church, Kwang, Rayfield, Jos South, against her husband, of Pearlfield Academy, Jebu Bassa LGA. X State that they are married traditionally and have a child who is 1 year old. X alleged that she and the Respondent had a misunderstanding, and she left their home without their child at the Respondent's instance. X alleged further that the Respondent and his mother have since denied her access to their child. The matter was admitted for investigation and intervention.

C/2024/WC/11016-11017
The Commission received a complaint dated 21st November, 2024, from X, who resides at No.6 Dong New Layout, Jos North, Plateau State, against the Respondent, who is her ex-husband and works with the History Department University of Jos. X State that they were married and have two children aged 10 and 6. X State that they have been separated since 2023 due to domestic violence. X alleged that the Respondent took the children to live with his mother, and she has been denied access to them. The matter was admitted for investigation and intervention.

C/2024/WC/10976-10977/PL
The Commission received a complaint dated 31st October, 2024, from X, who is 27 years old and resides at COCIN Church, Rizek, Jos East, Plateau State, against the father of her children, who is 35 years old and is a resident of Bayelsa State. She stated that she cohabited with the Respondent and they have 2 children, ages 7 and 4. She alleged that the Respondent was not meeting up with his responsibilities towards their children and that he had taken the children away from her to his mother, who resides in Mangu Local Government, Plateau State. She said his mother has denied her access to the children, even though she is primarily responsible for their upkeep. The matter was admitted for investigation and intervention.

C/2024/WC/10987-10989
The Commission received a complaint dated 5th November 2024 from X, who resides Opposite the Police Sta, Duala, Nassarawa Gwong, Jos North, Plateau State, against the Respondent, who is her ex-husband and resides around Katako Market, Jos North, Plateau State. X stated that they were married and have 5 children aged 18, 16, 13, 9 and 5 years old. She alleged that since their divorce in August 2023, the Respondent has abandoned responsibility for her, including 3 other children from his previous marriage to her. The matter was admitted for investigation and intervention

C/2024/WC/154/ADSO
The Commission received a complaint dated 17th October, 2024, from X alleging that in 2023 she left her matrimonial home because she was always attacked by her co-wife. X stated that her husband abandoned his responsibilities to her and their children in terms of their feeding, shelter, healthcare and upkeep at Sangere Welcome to Yola, Yola South LGA, Adamawa State. The matter was admitted for investigation and intervention.

C/2024/WC/157/ADSO
The Commission received a complaint dated 6th November, 2024, from XY alleging that at Njabore community, Modire ward, Girei LGA, Adamawa State, a certain hunter has repeatedly abandoned his wife and 9 children for extended periods without providing for the children's school fees, feeding, healthcare and upkeep. XY stated that most recently, the husband left them on 8th January, 2024 and has not returned or communicated with his wife. The matter was admitted for investigation and intervention.

C/2024/WC/152/ADSO
The Commission received a complaint from **X,** dated 11th October, 2024, against her husband alleging that for the past eleven years her husband abandoned the responsibility of her and their three children's upkeep and maintenance at Michika LGA, Adamawa State. The matter was admitted for investigation and intervention.

C/2024/WC/144/ADSO
The Commission received a complaint from **XY** dated 2nd October, 2024, alleging that her ex-husband was having an affair with her 14-year-old daughter and impregnated her in the process at Anguwan Mission, Gwallam Numan LGA, Adamawa State. **XY** stated that she took the matter to the station, and it was taken to the Bachama Area Court of where he signed an agreement accepting to take responsibility, but he defaulted. The matter was admitted for investigation and intervention.

C/2024/WC/149/ADSO
The Commission received a complaint from **X** dated 3rd October, 2024, alleging that her husband, since 2018, has abandoned his responsibility of taking care of the basic needs of their children at Kala'a Hong LG, Adamawa State. **X** stated that despite taking him to Court in 2021 for neglecting their children's responsibilities, he failed to comply.

C/2024/WC/150/ADSO
The Commission received a complaint from **X** dated 4th October, 2024, alleging that after their separation with her husband in 2023, he abandoned their children's welfare, healthcare, feeding, education and upkeep at Rumde Churchi Yola North LGA, Adamawa State.

C/2024/WC/156/ADSO
The Commission received a complaint from **X** dated 29th October, 2024, alleging that since 2023, her ex-husband abandoned the responsibility of catering for their 7-year-old daughter, Gurin Fufore LGA, Adamawa State.
The matter was admitted for investigation and intervention.

C/2024/WC/172/ADSO
The Commission received a complaint from **XY** dated 11th December, 2024, alleging that one of their church members impregnated her daughter in 2023 and abandoned the responsibility of taking care of both mother and child on her at Wurojabbe Yola South LGA, Adamawa State.
The matter was admitted for investigation and intervention.

C/2024/WC/145/ADSO
The Commission received a complaint from **X** dated 2nd October, 2024, alleging that since 2019, her ex-husband abandoned the responsibility of their son's upkeep on her, and all efforts to make him accept his responsibility were futile at Chigari Fufore LGA, Adamawa State.

C/2024/485/EBS
The Commission received a complaint dated 6TH December, 2024, from XY alleging that X, her wife, was doing everything so that Y, her husband, could not make it from the illness Y was suffering by stopping the receipt of any kind of treatment by Y.

C/2024/465/EBS
The Commission received a complaint dated 6th December, 2024, from XY alleging that X was maltreating and dehumanising a child at no. 35 Obi Street, Abakaliki, Ebonyi State. XY further alleged that child labour had been meted out on the child by X-her guardian.

C/2024/472/EBS
The Commission received a complaint from XY dated 18th October, 2024 against Y of No. 1 Goddy Ogbaga Avenue Abakaliki, alleging threat to life, assault and wife battery by Y, her husband. Y was arrested and detained on 19th October, 2024, at Abakaliki Police Command.

C/2024/463/EBS
The Commission received a complaint dated October 3, 2024, from XY, alleging that Y, residing in Oruizor Onueke, Ezza South LGA of Ebonyi State, has neglected his child welfare responsibilities. XY stated that Y has abandoned his duty of providing for his children's upkeep, making it difficult for them to cope.

C/2024/WC/358/ENUGU
The Commission received a complaint dated 3rd December, 2024, from Y, who resides at Vosan Drive Independence Layout Enugu. He alleged that his wife is denying him access to his (7) seven months old baby. He stated that since he has yet to pay her bride price, his wife claimed that the little boy is not his son. He pleads with the Commission's intervention in the matter. An interview was conducted, and a letter of invitation was sent to the respondent. There was my action, and the matter is still ongoing.

C/2024/CPR/343/ENUGU
On November 20, 2024, a 13-year-old girl approached the Commission, urgently requesting to be reunited with her parents in the village due to the mistreatment she faced from her aunt. They live together at No. 32 Bassey Duke Street, New Haven, Enugu.
The Commission took immediate action on its initiative. The girl's aunt was summoned, and her father was notified. Subsequently, the girl was returned to her parents in the village. It is recommended that the case be closed.

C/2024/WC/356/ENUGU
The Commission received a complaint dated 3rd December, 2024, from Y, who lives at No. 7 Adelabo Street, Uwani, Enugu State. He alleged that his ex-wife denied him access to his 3 three children. He pleads for the Commission's intervention. An interview was conducted, and a letter of invitation was sent to the respondent. There was mediation, and the matter was resolved. The matter is recommended to be closed.

C/2024/WC/324/ENUGU
The Commission received a complaint dated 6th November, 2024, from X, who lives at No. 14th Mile Akpuoga Nike, Enugu. She alleged that the father of her 2 children forcefully took away the children from her, thereby denying her access to her children. She pleads for the Commission's intervention. An interview was conducted, and a letter of invitation was sent to the respondent. There were mediations, and the matter was solved. The matter is recommended to be kept in view until they sign the Terms of Settlement.

C/2024/CPR/370/ENUGU
The Commission received a complaint dated 17th December, 2024, from Y against X alleging that X and her mother denied him access to their daughter at Trans-Ekulu Phase 6 Extension. Y sought the Commission's intervention. The matter was received; An interview was conducted for the complainant. The invitation letter was not sent as the complaint has yet to provide the address of the respondent. The matter is kept in view.

C/2024/WC/365/ENUGU
The Commission received a complaint dated 6th November, 2024, from X, alleging that Y, her husband, had stopped making provision for their children's feeding, school fees, etc, thereby denying their rights to survival and development at Ishiagu Ugwuayi, Enugu. She sought the intervention of the Commission. The matter is still ongoing.

C/2024/ESCR/360/ENUGU
The Commission received a complaint dated 3rd December, 2024, from Y alleging that their rights to freedom from discrimination are being abused by Umuezeonyima Village in Ede-Oballa Community in Nsukka LGA of Enugu State. Commission received a complaint dated 8th November, 2024, from X alleging that her husband has denied her access to their 4-year-old baby at Amorji Nike Abakpa in Enugu East LGA of Enugu State.

C/2024/WC/334/ENUGU
The Commission received a complaint dated 14th November, 2024, from X alleging that her husband has been denying her access to their children at Chijioke Agu Street, Emene in Enugu East L.G.A. of Enugu State.

C/2024/WC/162-163/JG
The Commission received a complaint on December 2, 2024, from X, a resident of Gumel Local Government, Jigawa State, against her ex-husband of Nassarawa Ward. The complaint alleges abandonment of responsibilities and neglect of her five-year-old son, who is in the custody of her ex-husband's wife.
The complainant stated that on January 7, 2024, the child sustained multiple injuries due to negligence. X further expressed frustration that the case has been before the Sharia Court in Galadi, Maigatari Local Government, Jigawa State, since April 2024, but all efforts to seek justice have been unsuccessful.

C/2024/WC/109-110/JG
The Commission received a complaint on October 21, 2024, from X, a resident of Yalwawa Primary, Dutse Local Government Area, Jigawa State, against her ex-husband, who is affiliated with the Federal University Dutse. The complaint alleges that he has abandoned his responsibilities and child custody since June 3, 2024, at Yalwawa Quarters. X further claims that his actions have made it difficult for her to manage the children.

C/2024/WC/O87/KD
The Commission received a complaint from X, who resides at Sabon Tasha, Kaduna State. X reported the matter on 13th March, 2024, alleging child abandonment by her husband, Y. The matter was admitted for investigation and intervention.

C/2024/WC/053/KD
The Commission received a complaint from X, the matter was reported on 8th March, 2024, alleging child abandonment by Y, her husband. The matter was admitted for investigation and intervention

C/2024/WC/016/KD
The Commission received a complaint from X; the matter was reported on 15th January, 2024, alleging denial of access to her child by her husband Y. The matter was admitted for investigation and intervention

C/2024/WC/013/KD
The Commission received a complaint from X, dated 8th January, 2024, alleging child abandonment by Y, her husband, and she wants the Commission to intervene. The matter was admitted for investigation and intervention

C/2024/WC/069/KD
The Commission received a complaint from XY dated 22nd February, 2024, alleging child torture by X against their child. The matter was admitted for investigation and intervention

C/2024/WC/019/KD
The Commission received a complaint from X dated 15th January, 2024, alleging that her husband Y abandoned his fatherly responsibilities towards their children and beat her whenever there was a misunderstanding. The matter was admitted for investigation and intervention.

C/2024/043/ WC/KD
The Commission received a complaint from X on the 30th of January, 2024, alleging that Y has abandoned them and her children. The matter was admissible for investigation and intervention.

C/2024/ 050/WC//KD
The Commission received a complaint from M X 7th February, 2024, alleging that Y, the father of their daughter, has abandoned her without proper care. The matter was admissible for investigation and intervention.

C/2024/WC/139/KD
The Commission received a complaint dated 8th May, 2024, from X, alleging that Y, her husband, of not taken up his fatherly responsibilities towards their children. The matter was admitted for investigation and intervention.

C/2024/582 585/IMS
The Commission received a complaint from X dated 13th December, 2024, requesting custody of her children and welfare from Y, her husband. She further alleged that the misunderstanding between her and her husband started after the birth of their first child, where she alleged that she had undergone a series of maltreatment at the hands of her husband. The matter was admitted for investigation and intervention.

C/2024/WC/132/KD
The Commission received a complaint dated 6th May, 2024, from X alleging that Y, her husband, is in the habit of embarrassing her and also abandoned her and their children. The matter was admitted for investigation and intervention.

C/2024/WC/159/KD
The Commission received a complaint dated 27th May, 2024, from X alleging that Y, her ex-husband, left her with the responsibility of their Children. The matter was admitted for investigation and intervention.

C/2024/WC/163/KD
The Commission received a complaint dated 28th May, 2024, from X alleging her mother-in-law X forcefully collected their son from her since the death of her husband, and she did not allow her to see him. The matter was admitted for investigation and intervention.

C/2024/038/ WC/KD
The Commission received a complaint from X on 29th January, 2024, alleging that her husband Y had abandoned her and their children without proper care. The matter was admissible for investigation and intervention

C/2024/059/WC/KD
The Commission received a complaint dated 12th February, 2024, from X alleging that her Ex-husband Y has abandoned their children without care. The matter was admitted for investigation and intervention.

C/2024/WC/154/KD
The Commission received a complaint dated 22nd May, 2024, from X, alleging that Y, her ex-husband, who abandoned his responsibilities as a father to his seven-year-old daughter. She is the one who provides everything for the child. The matter was admitted for investigation and intervention.

C/2024/059/WC/KD
The Commission received a complaint dated 12th February, 2024, from X alleging that her Ex-husband Y has abandoned their children without care. The matter was admitted for investigation and intervention.

C/2024/WC/022/KD
The Commission received a complaint from X dated 15th of January, 2024, alleging abandonment and lack of care against Y, the father of their son. The matter was admitted for investigation and intervention.

C/2024/WC/390/KD
The Commission received a complaint from X, dated 8th of January, 2024, alleging domestic violence and lack of care by Y, her husband. The matter was admitted for investigation and intervention.

C/2024/WC/176KD
The Commission received a complaint dated 10th June, 202,4, from X alleging that Y, her husband, has abandoned her and their children, and has refused money for their feeding. She further alleged that all efforts to ensure he took care of their children proved abortive. The matter was admitted for investigation and intervention.

C/2024/WC/014/KD
The Commission received a complaint dated 11th January 2024 from X against XY and Queens Field School management on alleged undue

restraint and lack of access to their school. The matter was admitted for investigation and intervention.

C/2024/WC/020/KD
The Commission received a Complaint dated 15th January 2024 from X against Y, her husband, alleging domestic violence, lack of care and wrongful accusation of infidelity. The matter was admitted for investigation and intervention.

C/2024/WC/037/KD
The Commission received a Complaint dated 29th January 2024 from X alleging that Y, her husband, has abandoned her and their children. She further alleged a lack of care. The matter was admitted for investigation and intervention.

C/2024/WC/008/KD
The Commission received a Complaint dated 9th March 2024 from X against Y on alleged family abandonment and lack of care, and also sending her out of his house during pregnancy. The matter was admitted for investigation and intervention.

C/2024/563 565/IMS
The Commission received a complaint from X, dated 21st November, 2024, against Y, her husband, alleging that he abandoned his fatherly responsibilities, thereby making life difficult for them since 2021. The matter was admitted for investigation and intervention.

C/2024/505-506/IMS
The Commission received a complaint from X, dated 29th October, 202,4, against Y, her husband. She is alleging a denial of access/custody of their child since 2022. The matter was admitted for investigation

Chapter 12

LABOUR RIGHT IN NIGERIA CHALLENGES AND SOLUTION

By

Victor Chijioke Nwoko*

Introduction

The constitution of the country represents the status of Nigerian labour rights. No doubt the Constitution of Nigeria is the main quard which ensures that labour laws and regulations are in conformity with constitutional provisions. One of the key principles is safeguarding the rights of workers, but also reminding employers of their duties to workers. The Constitution of the Federal Republic of Nigeria 1999 (as amended)[1] as well as restated in the Labour Act of Nigeria, guarantees the right to be free from forced labour.

The Labour Act clearly outlines the terms and conditions governing employment, establishing accountability for both employers and employees in fulfilling their respective duties. Additionally, labour laws such as the Labour Act, the Trade Union Act, the Waves Board, and the Industrial Council Act confer rights on workers and define their obligations. Together, these laws aim to ensure and acknowledge the rights of workers, enabling them to organize, engage in collective bargaining and empowering unions to represent their members[1].

Furthermore, the Factories Act and Workmen's Compensation Act 2010 are intended to safeguard workers from work-related hazards and diseases and provide provisions for compensation in cases of work-related injuries or disabilities.[2]

According to Alan Bogg, labor rights are rooted in the idea that workers should have the opportunity to participate in decision-making processes that affect their work environment, wages, and benefits, in his views these rights as vital for preserving the dignity and autonomy of workers, promoting equality within the workplace, and achieving a more balanced distribution of power between employers and employees.[3]

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1 Constitution of the Federal Republic of Nigeria 1999.

1 The Labour Act 2004.

2 Factories Act and workmen's compensation Act 2004.

3 A Bogg, *The Democratic Aspects of Trade Union Recognition* (2007) p. 30-35.

Labour right extends beyond legal frameworks to encompass the broader societal and ethical considerations surrounding the rights of workers to organize and collectively advocate for their interests. By focusing on the democratic aspects of trade union recognition, Bogg's work underscores the intrinsic link between labour rights, workplace democracy, and the pursuit of social justice within the labor market.

His viewpoint regarding labor rights underscores the importance of collective action and negotiation in protecting the welfare and rights of workers, ultimately leading to a fairer and more equitable labor system. To enforce these laws, the Nigerian government has established statutory bodies with specific mandates, including the Federal Ministry of Labour and Productivity (FMLP), National Labour Advisory Council (NLAC), Industrial Arbitration Panel (IAP), and the National Industrial Court of Nigeria (NICN).

Despite the existing regulatory framework for protecting workers and Nigeria's commitment to over 30 International Labour Organization (ILO) Conventions, violations of Trade Union rights remain prevalent in the country[4].

These violations encompass intimidating workers who are trade union members, employers' refusal to recognize trade unions, and the dismissal of worker representatives involved in trade union activities[5].

Conceptual Clarification

Labour Rights

As delineated in International, Regional, and National Laws, Labour Rights can be summarized as:

1. The entitlement to work in fair and compassionate conditions
2. The privilege to work in secure and healthy surroundings
3. The right to receive equal pay for equal work without discrimination based on gender or any other factors.

The Right to Work in Fair and Compassionate Conditions: means that employees are entitled to fair treatment and equitable opportunities at work. This includes being allocated tasks based on their qualifications and skills, and receiving suitable benefits and compensation.

The Privilege to Work in Secure and Healthy Surroundings: Employees: entitlement to work in secure and healthy surroundings which means that employers must fulfill their responsibility by implementing measures to create a hazard-free work environment and

4 International, Regional and National Law (Right to organize and collective bargaining Convention 1949, Freedom of Association and Right to Collective bargaining (Convention 87 and 98).

5 Employee Compensation Act 2010 (Section 7).

ensuring the safety of all workers. This includes providing necessary first aid resources when needed.

The Right to Receive Equal Pay for Equal Work Without Discrimination Based on Gender or Any Other Factors: This right ensures that individuals performing the same work or work of the same value should receive equal pay, regardless of their gender or any other factors such as race, ethnicity, or other characteristics unrelated to job performance. This principle aims to promote fairness and eliminate unjust wage disparities based on irrelevant personal attributes, thus upholding the principle of equality in the workplace.
Moreover, every employer has a responsibility to ensure that their employees receive their rightful monetary benefits equitably and in accordance with the duties they have fulfilled.

The Right to Strike
As enshrined in the Right to Freedom of Association according to Section 38 of the 1999 Constitution of the Federal Republic of Nigeria (as amended), grants employees the collective right to engage in a strike as a means of expressing dissatisfaction with low wages and inadequate working conditions[6]

However, this right can only be exercised after employees have followed due process by providing sufficient notice to the appropriate authorities regarding the impending strike actions on any relevant issues.

In Nigeria, although the right to strike is not considered a fundamental human right in the Constitution, there has been a debate about incorporating it into the Constitution by the Nigerian Labour Congress and the Trade Union Congress. This is particularly important because in many other countries, the right to strike is recognized as an essential element of a democratic society.

Right to Compensation
The right to compensation refers to the entitlement of individuals to receive fair and just recompense for their work or in cases where they have suffered harm, loss, or injury[7]. This right is enshrined in labour laws, human rights declarations, and legal frameworks, aiming to ensure that individuals are adequately compensated for their contributions or for any injustices they have endured[8].

6 Constitution of the Federal republic of Nigeria (1999) as amended (section 38).
7 African Charter on Human and people's Right.
8 According to the Employee Compensation Act (2010).

In the context of employment, the right to compensation encompasses various aspects, including fair wages, overtime pay, benefits, and other forms of remuneration. It serves as a fundamental principle in ensuring that employees are fairly rewarded for their labour, and it acts as a mechanism for promoting economic equality and social justice within the workforce.

Furthermore, beyond the scope of employment, the right to compensation extends to situations such as personal injury, medical malpractice, and wrongful death, where individuals are entitled to receive financial restitution for the harm or losses they have experienced due to the actions or negligence of others.

Overall, the right to compensation plays a crucial role in protecting individuals from exploitation, ensuring dignified work conditions, and providing recourse for those who have suffered unjustly, thereby contributing to the establishment of a more equitable and just society.

Furthermore, various labour laws establish distinct rights for employees and stipulate corresponding responsibilities. These regulations encompass the Labour Act of 2004, Trade Union Act of 2005, Wages Board and Industrial Council Act, collectively aiming to uphold and acknowledge workers' rights, including the right to organize, participate in collective bargaining, and empower trade unions to represent their members effectively[9].

To safeguard employees from workplace hazards and illnesses, the Factories Act and the Workmen's Compensation Act have been implemented. These regulations introduce preventive measures for workplace risks and offer provisions for compensating workers who suffer injuries or disabilities while on the job.

In order to ensure the effective implementation of these laws, the Nigerian government has instituted statutory bodies with specific mandates. These entities encompass the Federal Ministry of Labour and Productivity (FMLP), the National Labour Advisory Council (NLAC), the Industrial Arbitration Panel (IAP), and the National Industrial Court of Nigeria (NICN). Their responsibilities include offering counsel and direction on labour-related issues, as well as facilitating dispute resolution and supervising labour-related cases.[10]

Despite having a comprehensive legal and regulatory framework aimed at safeguarding workers' rights, Nigeria continues to encounter major obstacles in effectively enforcing these protections. The widespread prevalence of trade union rights violations is a notable issue, with members of trade unions frequently experiencing intimidation, and

9 Trade Unions, Migrant Workers and the EU Settlement Scheme.

10 The Original and Appellate Jurisdiction of the Nigerian National Industrial Court in Labour Matters.

employers frequently rejecting the recognition of trade unions. Additionally, there have been instances where workers' representatives involved in union activities have faced dismissal, consequently undermining their freedoms of association and collective bargaining[11].

Nigeria has implemented laws and established institutions to safeguard the rights of workers and to uphold the fundamental principle of equality before the law. Despite these measures, persistent challenges remain, including violations of trade union rights, which need to be urgently addressed to ensure the effective protection of workers' rights and the promotion of a fair and just working environment, especially in the context of the recently enacted new minimum wage to further ensure fair compensation for workers.

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.'[12]

Article 15 African Charter on Human and Peoples' Rights provides that 'Every individual shall have the right to work under equitable and satisfactory conditions, and shall receive equal pay for equal work.'[13]

Municipal/Domestic

The Constitution of the Federal Republic of Nigeria 1999 (as amended) in Section 17(3a) 'guarantees all citizens the right to seek suitable employment and secure adequate means of livelihood, without discrimination based on any group or affiliation'[14].

Section 17 (3) (b) thereof provides- "Conditions of work are just and Humane, and that there are adequate facilities for leisure and social, religious and cultural life[15]"

Section 17(3) (c) provides that "The health, safety and welfare of all persons in employment are safeguarded and not endangered and abused".[16]

Section 17(3e) provides "There is equal pay for equal work without discrimination on account of sex or any other grounds whatsoever".[17]

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11 Labour Act 2004 (Section 12).
12 Universal Declaration of Human Rights, Article 23.
13 Ibid.
14 Constitution of the Federal Republic of Nigeria 1999 (As Amended), Chapter 4- Section 38.
15 Constitution of the Federal Republic of Nigeria (As Amended) 1999, Section 38,
16 Constitution of the Federal Republic of Nigeria (As Amended) 1999, Section 38.
17 Constitution of the Federal Republic of Nigeria (As Amended) 1999, Section 38.

To addressing these challenges requires a multi-faceted approach. This includes strengthening enforcement mechanisms, raising awareness about labour rights, enhancing dialogue between employers and workers, revising labour laws to align with international standards, and implementing inclusive social protection programs.

Conclusion

In conclusion, safeguarding and promoting labour rights in Nigeria are essential for fostering a productive and equitable workforce. To address the challenges faced in this realm, concerted efforts from the government, employers, workers, and civil society are required. By upholding labour rights and implementing sustainable solutions, Nigeria can enhance workplace conditions, promote social justice, and contribute to overall economic development.

Recommendations

Enhance existing laws and policies to align with international human rights and labour standards, and establish robust institutions and procedures for monitoring, investigating, and prosecuting human rights and labour rights violations.

Conducting public awareness campaigns and training programs for employers, employees, and government officials on human rights and labour rights to foster a culture of collective bargaining and social dialogue to address labor disputes and promote fair labor practices.

Ensure access to fair, effective, and independent judicial remedies for victims of human rights and labour rights violations, to combat corruption and ensure transparency in government and business practices to promote accountability and respect for human rights and labour rights.

Ratify and implement international human rights and labour conventions to demonstrate commitment to global standards, to support and empower civil society organizations to advocate for human rights and labour rights.

Regular monitoring and evaluation to assess progress, identify gaps, and adjust strategies to ensure effective protection of human rights and labour rights in Nigeria these can improve its human rights and labour rights record, promoting a more just and equitable society for all.

Some of the Complaint Received by the Commission on Labour Rights are as follows:

C/2024/ES-CR/040/KD

The Commission received a complaint from Y; the matter was reported on 30th January, 2024 alleging that his job was terminated without paying his salary by XY MNE Transportation and Logistics Service

Limited Kaduna State. The matter was admitted for investigation and intervention.

C/2024/ES-CR/095/KD
The Commission received a complaint from Y. The matter was reported on 21st March, 2024 alleging that he works with XY CCECC, China Civil Engineering Construction Company. He further alleged that he injured himself while on official duty and that the company has refused to attend to his medical needs. The matter was admitted for investigation and intervention.

C/2024/ES-CR/006/KD
The Commission received a complaint from Y dated 9th January, 2024 alleging nonpayment of his benefit against XY Sabon Dele Micro Investment, Kaduna State. He further alleged that all effort to ensure he was paid proved abortive. The matter was admitted for investigation and intervention.

C/2024/ESCR/024/KTN
The Commission received a complaint dated 1st February 2024 from Y alleging breach of trust by XY that they worked for him but he refused to pay them after completing the work. The matter was admitted for investigation and intervention.

C/2024/ESCR/011/KTN
The commission received a complaint dated 10th January 2024 from Y alleging that Y withheld his money the sum of one hundred thousand Naira (₦100,000) and that he had tried all his effort to get his money back and proved abortive. The matter was admitted for investigation and intervention.

C/2024/ESCR/029/KTN
The Commission received a complaint dated 8th February 2024 from Y alleging that XY refused to pay him 19 months' salary while working in their company and later sacked him without paying the salary. He further alleged that all efforts to ensure he was paid proved abortive. The matter was admitted for investigation and intervention.

C/2024/ESCR/036/KTN
The Commission received a complaint dated 22/2/2024 from Y alleging that X borrowed money and stopped the payment after he began paying install-mentally and then decided to take him to court. The matter was admitted for investigation and intervention.

C/2024/ES-CR/127/KD
The Commission received a complaint dated 26th April, 2024 from Y alleging that Y enjoyed his services at the airport where his goods were delivered successfully but has failed to pay the money for the service delivery and charges for storage. He wants the Commission to intervene. The matter was inadmissible because it was contractual in nature

C/2024/ESCR/018/KTN
The Commission received a complaint dated 29th January 2024 from Y alleging that Y his guarantor conspired to have him arrested by the police and his tricycle confiscated. The matter was admitted for investigation and intervention

C/2024/ESCR/051/KTN
The Commission received a complaint dated 11th March 2024 from Y alleging that Y refused to pay what he owed him after a loan transaction between them. The matter was admitted for investigation and intervention.

C/2024/ESCR/017/KTN
The Commission received a complaint dated 23rd January 2024 from Y alleging that he collected food on credit from X worth N73,000 and he was able to pay back ₦30,000 while the remaining balance of ₦43,000 is yet to be paid which as a result she was humiliating and embarrassing him publicly. The matter was admitted for investigation and intervention.

C/2024/ESCR/047/KTN
The Commission received a complaint dated 6th March 2024 from X alleging that Y collected her goods on credit worth the sum of ₦50,000 and refused to pay the remaining balance of ₦30,000. The matter was admitted for investigation and intervention.

C/24/ESCR/020/LAG
The Commission received a complaint dated 17th January, 2024 from Y alleging XY of Unlawful termination and Non-Payment of benefits. He further alleged that all effort to ensure he was paid proved abortive. The matter was admitted for investigation and intervention.

C/24/ESCR/067/LAG 067/LAG/C/2023/ESCR/2867/HQ
The Commission received a complaint from Y alleging that XY recruited him, over 4 years and counting and refused to pay him the negotiated salary and pension. The Matter was admitted for investigation and intervention.

C/24/ESCR/069/LAG
The Commission received a complaint dated 15th February, 2024 from X alleging XY his former employer of Non-payment of Salary. He further alleged that he had made every effort to ensure he was paid which yielded no results. The complaint was admitted for investigation and intervention.

C/24/ESCR/106/LAG
The Commission received a complaint dated 8th March, 2024 from Y against XY Company alleging Non-Payment of salary. He further alleged that they have refused to pay him for the months he worked for, and wants the Commission to intervene. The matter was admitted for investigation and intervention.

C/24/CPR/119/LAG
The Commission received a complaint dated 21st March, 2024, from X against XY alleging of threat to life, non-payment of benefit and unlawful arrest. She further alleged that she worked for the XY Company for months that had refused to pay her the salary she worked, and when she asked for the payment they arrested her and had been threatening her life. The matter was admitted for investigation and intervention.

C/24/ESCR/122-123/LAG
The Commission received a complaint dated 22nd February, 2024 from Y against Y (Oba of Ikotun), alleging Forceful Acquisition of Land. The matter was admitted for investigation and intervention.

C/24/ESCR/127/LAG
The Commission received a complaint dated 13th March, 2024 from Y against XY alleging Illegal deduction from bank. The matter was admitted for investigation and intervention.

C/2024/ESCR/050/ANS
The Commission is in receipt of a complaint dated 27th February, 2024 from Y alleging that after serving the XY employer under an agreement/arrangement as apprentice wherein he sells drugs and manages the pharmacies of the employer at various branches in Awka and Nise both in Anambra State for 6 years as agreed. He further alleged that the employer reneged on the agreement/arrangement and insisted that he is 21 years old, and should serve for another 2 more years which he reluctantly agreed because he had no choice and did not have idea of what to do. However, after persevering to serve the employer for another 2 years, the employer refused to settle him as he did for other

apprentices that served him. This makes it difficult for him to cope. The matter was admitted for investigation and intervention.

C/2024/ESCR/007/AKR
The Commission received a complaint from one man, Y against Elizade University, Ilara Mokin, Ondo State on the 3rd of January, 2024 regarding alleged victimization and violation of human rights. A letter of dismissal was given to Y alongside two (2) armed security officers led by the School's CSO who escorted him out of his office. No severance pay was made except a 16 days salary and the reason for his dismissal was an alleged claim of sexual harassment in Kwara State University where he was previously employed but guised under restructuring. The complaint was admitted to the Commission for intervention.

C/2024/ESCR/002/AKR
The Commission received a complaint from a man, Y, who resides in Obegbeye Street, Off Afunbiowo Primary School, Oke-aro, Akure, Ondo State on the 4th of January, 2024 against the Ministry of Natural Resources/Agric Ministry, Ondo State regarding alleged breach of contract. Y was allocated 100 Hectares of land by the Ministry of Natural Resources for farming but a breach happened and an intruder tampered with the trees planted on the farm and the Ministry has not been able to defend their position on it. The complainant was also invited to the Police station over the false allegations made by the said intruder. X sought the intervention of the Commission to obtain justice.

C/NHRC/OYO/2024/014/ESCR
The Commission received a complaint dated 28th February 2024 from Y alleging X proprietress Faithfull Soundmind College of alleged non-payment of salary.

C/NHRC/OYO/2024/005/ESCR
The Commission received a complaint dated 28th February 2024 from Y alleging Federal Research Institute for alleged nonpayment of benefits and entitlement.

C/NHRC/OYO/2024/002/ESCR
The Commission received a complaint dated 11th January 2024 from X who resides at the opposite FRSC office Eleyele, Ibadan. X alleged Y of nonpayment of salary.

C/2024/ESCR/10,003/PL
The Commission received a complaint dated 30th January 2024 from Y, aged 28, of Rizek, Jos-East, Plateau State. Y alleged that he worked for

the Respondent on his irrigation farm for 3 months without any documented agreement. The Respondent paid Y part of his wages in December 2023 but Y alleged that his employer failed to balance up his payment till now. The matter was admitted for investigation and intervention.

C/2024/CPR/125/KB
The Commission received a complaint from Y, a tenant, dated 11th November 2024, alleging that the chairman of Argungu Local Government auctioned houses for personal gain and issued relocation notices. This complaint was admitted for investigation and intervention.

C/2024/CPR/124/KB
The Commission received a complaint from Y against Y, the land seller, dated 14th November 2024. Y alleges he received a different, eroded plot and requested a refund since June 2004, claiming the court registrar denied him a hearing. The complaint was admitted for investigation and intervention.

C/2024/CPR/129/KB
The Commission received a complaint from X dated 23rd November 2024, alleging that after seeking housing assistance from Y, he destroyed her belongings; she further alleged that he initially provided temporary accommodation but evicted her from the house. The complaint was admitted for investigation and intervention.

C/2024/CPR/115/KB
The Commission received a complaint from Y dated 19th October 2024, alleging that a company hired his truck for N1,000,000 but did not return it. He further alleged that the driver of the truck was tortured to force them to comply. The matter was admitted for investigation and intervention.

C/2024/CPR/116/KB
The Commission received a complaint from Y dated 2nd October 2024, alleging that Y his brother blocked him from accessing his salary account, which has caused him not to be able to care of his family. The matter was admitted for investigation and intervention.

C/2024/ESC/10168/PL
The Commission received a complaint dated 14th March 2024 from Y of Jos South, Plateau State against YY, his employer. Y stated that he had been working in the company for over 5 years and that the previous week, he was made to work 36 hours straight which took a toll on his

health. Y alleged that when he informed YY about his health status, he terminated his employment. Y also alleged that previously in 2022, he had an episode with a senior staff of the company who slapped him twice and pus has been coming out of his ear since then and it affected his hearing. The matter was admitted for investigation and intervention.

C/2024/ES-CR/006/KD
The Commission received a complaint dated 9th January 2024 from Y of Kurmimashi, Kaduna State. Y alleged nonpayment of his employee benefits by Sabon Dele Micro Investment, Kaduna State. The matter was admitted for investigation and intervention.

C/2024/CPR/131/KB
The Commission received a complaint from X alleging she was given a six-month notice to vacate from his landlord. Although the case is in court, she wants the Commission to intervene and settle the matter amicably. The matter was admitted for investigation and intervention.

C/2024/ES-CR/095/KD
The Commission received a complaint dated 21st March 2024 from Y of Kabala West, Kaduna State. Y alleged that he works with CCECC (China Civil Engineering Construction Company), New Yard, Buruku. Kaduna State. He claimed that he mistakenly injured himself while on his official duty and is yet to be properly attended to by CCECC. The matter was admitted for investigation and intervention.

C/2024/ES-CR/040/KD
The Commission received a complaint dated 30th January 2024 from Y of Kachiya Road. Marabanrido, Kaduna State, alleging that his job was terminated without paying his salary by MNE Transportation and Logistics Service Limited Kaduna State. The matter was admitted for investigation and intervention.

C/2024/ES-CR/079/KD
The Commission received a complaint dated 5th March 2024 from X of Barnawa, Kaduna State, alleging non-payment of his wages by Y, her employer Y. The matter was admitted for investigation and intervention.

C/2024/ES-CR/062/KD
The Commission received a complaint dated 14th February 2024 from Y of Abuja Road, Rigasa, Kaduna alleging that one Alhaji Y, denied him his wage for a POP job he had done for him two months back. The matter was admitted for investigation and intervention.

C/24/ESCR/256/LAG
The Commission received a complaint from X alleging that Y and her former employer refused to pay her two months' salary, which they owed her before she was dismissed from their employment. The matter was admitted for investigation and intervention.

C/24/ESCR/304/LAG
The Commission received a complaint from Y dated 13th April 2024. He alleged that his organization owed him compensation because he had an accident at work. The matter was admitted for investigation and intervention.

C/2024/CPR/137/KB
The Commission received a complaint from Y dated 18th December 2024, alleging issues with Y a carpenter he paid for work he did for him which he claimed he did not receive the funds, leading to court action and detention over unpaid debts. The matter was admitted for investigation and intervention.

C/24/ESCR/305/LAG
The Commission received a complaint dated 13th May 2024 from Y against his employer. He alleged that he worked for his employer as a casual worker. He also stated that in the course of discharging his duty at his workplace, he sustained an injury that impaired his sight. He further stated that his employer has refused to settle him as he could no longer work. He sought the Commission's intervention to help him get compensation.

C/24/ESCR/308/LAG
The Commission received a complaint dated 13th May 2024 from one Y alleging that his employer had not paid his three months' salaries and that they issued a threat to his life because he was asking for it. The said complaint was admitted for investigation.

C/24/ESCR/320/LAG
The commission received a complaint dated 16th May 2024 from Y alleging that he worked for a company and in the course of duty, he had an accident at one of their work sites in April 2024. He claimed that and the company abandoned him without medical care. He appealed to the Commission to intervene and help him ensure he got adequate medical attention and compensation. The Matter was admitted for investigation and intervention.

C/24/ESCR/326/LAG
The Commission received a complaint dated 20th May 2024 from X alleging that Y and her former employer have refused to pay 3 months' salary owed to her while in his company's employment. The matter was admitted for investigation and intervention.

C/24/ESCR/339/LAG
The Commission received a complaint dated 23rd May 2024 from Y. He alleged that his organization owed him one month's salary. The matter was admitted for investigation and intervention.

C/2024/CPR/112/KB
The Commission received a complaint from Y dated 8th October 2024, alleging he purchased a faulty TV from XY's Electronics Shop, and the vendor has refused to refund him the money. He seeks the Commission's intervention. The matter was admitted for investigation and intervention.

C/2024/CPR/126/KB
The Commission received a complaint from Y dated 14th November 2024, alleging a business transaction involving faulty goods purchased from Y. He further alleged that the producer had failed to replace the goods. The matter was admitted for investigation and intervention.

C/2024/ESCR/133/ANS
The Commission received a complaint dated 7th May 2024 from X alleging that her employer, La Royal Hotel, Ukwuaki Junction, Ifite-Awka, Awka South LGA, Anambra State, refused to pay her salary for March 2024. The manager of the facility promised to pay her on or before the 4th day of May 2024 but eventually flouted the agreement which made her put phone calls across to the manager on the 6th day of May 2024, which he neither picked nor returned. She stated that she went to his office where he kept her waiting for over two hours and finally ordered the security personnel to forcefully throw her out of the facility. In doing so, the security personnel assaulted her by beating her with his security uniform belt thereby inflicting serious injuries on her. She sought the Commission's intervention to compel her employer to pay her what they owed along with compensation for the damage they caused her by assaulting her.

C/2024/ESCR/382/AKS
The Commission received a complaint dated 15th November 2024 from X against XX. X alleges that XX has failed to pay her for one month of employment.

C/2024/ESCR/283/EDO
The Commission received a complaint from X dated 18th November 2024 alleging unlawful dismissal from employment by XYZ (Presco Plc), located outside of Benin City. The complaint was admitted for investigation and intervention.

C/2024/ESCR/297/EDO
The Commission received a complaint dated 27th November 2024, from Y alleging that the Nigerian Army has refused to allow him to voluntarily disengage from service since 2019. The matter was admitted for investigation and intervention.

C/2024/ESCR/296/EDO
The Commission received a complaint dated 25th September 2024, from Y against New Watson Doors Industry. Y alleges that the company has refused to cover his medical expenses following an injury sustained while employed by them.

Chapter 13

ACCESS TO JUSTICE AND HUMAN RIGHTS PROMOTION AND PROTECTION: THE ROLE OF THE COURTS

By

Uzoamaka Victoria Ifechi-Fred*

Introduction

In international law, regional frameworks, and domestic legal systems, the respect and protection of human rights can only be ensured through the availability of effective judicial remedies[1] and quasi-judicial redress mechanisms. Access to justice is essential not only when a human rights violation occurs, but also in its aftermath. It serves as a critical component of any justice system designed to safeguard and uphold human rights. Interestingly, the concept of access to justice has evolved over time, taking on multiple dimensions. Various regional and international human rights treaties, along with national legislation, affirm the right to seek and obtain justice. Access to justice is not only a fundamental human right in itself, but also a critical mechanism for empowering individuals to assert their rights and pursue available remedies.

Access to justice usually connotes having legal "rights" and the freedom to demand remedies for civil wrongs or, when faced with a criminal charge or a civil infraction, the existence of a fair and transparent forum in which to defend oneself and an opportunity to be heard by an impartial decision maker. To others or in other contexts, access to justice is taken to mean the ready availability of specific law-related resources: a licensed attorney to represent one's interests, clarifying instructional materials, or other legal assistance capable of distilling the complicated processes and substantive rules of our justice system into something digestible.[2]

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1 F Francesco, 'Access to Justice as a Human Right, Collected Courses of the Academy of European Law (Oxford, 2007; online edn, Oxford Academic, 22 March 2012), <https://doi.org/10.1093/acprof:oso/9780199233083.001.0001> accessed 16 August 2024.

2 J J Prescott, 'Improving access to justice in state courts with platform technology' <https://scholarship.law.vanderbilt.edu/cgi/viewcontent.cgi?article=1102&context=vlr> accessed 31 July 2024.

As such the courts contribute quietly and significantly to social and economic well-being. They play a part in the sense that we live in an orderly society where there are rights and protections, and that these rights and protections can be made good. In societies governed by the rule of law, the courts provide the community's defence against arbitrary government action. They promote social order and facilitate the peaceful resolution of disputes. In publishing their decisions, the courts communicate and reinforce civic values and norms.[3]

Access to justice often equates access to courts[4]and for many Nigerians, seeking redress through the courts, whether for human rights violations or to enforce other legal rights, delayed access to justice or the lack thereof remains a significant challenge. When a citizen whose rights have been violated faces obstacles in accessing justice through the judicial system, this could lead to further violations of their fundamental rights. Moreover, such barriers risk undermining the rule of law, potentially resulting in a breakdown of societal order and eroding public confidence in the justice system.

This chapter seeks to discuss the role of the court as a mechanism for gaining access to justice which will enhance the promotion, protection and enforcement of human rights as enshrined in the Constitution of the Federal Republic of Nigeria[5]. This chapter begins with an introduction which feeds into the conceptual clarification of terms. It lays down the legal framework that serves as a foundation for the enjoyment of the right to access to justice, explains the role of the court in reducing human rights violations by providing access to justice. It enumerates the difficulties faced by the courts and finally arrives at a conclusion and provides recommendations.

Conceptual Clarifications

Access to Justice

The term access to justice refers to the ability of individuals or groups to bring claims of alleged rights violations before judicial or quasi-judicial bodies, and to have those claims adjudicated fairly and impartially, based on the evidence presented and in accordance with applicable laws.[6]

Access to justice is a basic principle of the rule of law. In the absence of access to justice, people are unable to have their voices heard, exercise their rights, challenge discrimination or hold decision-makers

3 H Genn, 'What is Civil Justice for? Reform, ADR and access to justice', <https://openyls.law.yale.edu/bitstream/handle/20.500.13051/7477/20_24YaleJLHuman397_2012_.pdf?sequence=2> accessed 31 July 2024.

4 Ibid (3).

5 Constitution of the Federal Republic of Nigeria 1999, section 33 and section 46.

accountable. The Declaration of the High-level Meeting on the Rule of Law emphasises the right of equal access to justice for all, including members of vulnerable groups, and reaffirmed the commitment of Member States to taking all necessary steps to provide fair, transparent, effective, non-discriminatory and accountable services that promote access to justice for all[7]

Formally the concept of access to justice involves the right to fair hearing before an independent and impartial court or tribunal. However, the concept of access to justice has evolved significantly from this traditional narrow idea to include a range of factors beyond the formal functioning of the justice system. There is increased recognition that the definition of the concept of access to justice cannot be limited to the functioning of institutions that resolves disputes and legal processes. It must instead be defined in the context of the socio-economic settings of the prospective users of these institutions. It therefore means that access to justices includes any authorise and legally recognised system through which citizens get justice when their rights are violated.

Courts

A court is a constitutionally or legally established body with the authority to adjudicate legal disputes, interpret laws, and administer justice through the application of legal rules and principles. Courts are empowered to hear and determine civil, criminal, and administrative matters, and their decisions are binding on the parties involved.[8]

Legal Framework on access to justice

Access to justice is enshrined in international, regional and domestic law, providing a comprehensive guide to ensuring that access to justice is promoted, protected and enforced through the judicial system.

International

At the international level, several conventions and treaties establish the foundation for access to justice. Key among these is the Universal Declaration of Human Rights (UDHR) also known as the International Bill of rights. It serves as the global roadmap for international human rights legislation and instruments, which establishes fundamental guidelines for access to justice.

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7 United Nations and the Rule of Law, 'Access to Justice' <https://www.un.org/ruleoflaw/thematic-areas/access-to-justice-and-rule-of-law-institutions/access-to-justice/> accessed 24 July 2024.

8 Richard Clements and Ademola Abass, *Complete Public Law: Text, Cases, and Materials* (4th edn, Oxford University Press 2019) 307.

Article 8[9] explicitly states that 'Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law'.

Article 10[10] further states that 'Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.'

Going by the abovementioned articles, these provisions emphasise the importance of access to justice. Every individual is entitled to effective legal remedies when their rights are violated. Such proceedings must be conducted publicly, in a manner that is fair to all parties, and perceived as fair by observers. These guidelines are important because they form the basis for people whose rights have been violated to seek remedies for such violations and abuses as the case may be.

The guidelines in the Bill of rights were adopted by the International Covenant on Civil and Political Rights (ICCPR), a binding legal instrument to which Nigeria is a party. Article 2[11] of the ICCPR provides for the respect of the rights of everyone within a country's jurisdiction. Where these right are violated a person is entitled to legal remedies and enforcement of these remedies. Nigeria being a party to these instruments has a responsibility to uphold the provisions of these instruments thereby adhering to international standards and upholding global best practices. All of these are emphasisied in the UN Principles and guidelines on access to legal aid in criminal justice system.[12]

Regional

At the regional level, the African Charter on Human and Peoples' Rights (ACHPR)[13], to which Nigeria is a signatory, further strengthens the framework for access to justice. Article 3(1) (2) of the African Charter[14] guarantees that 'Every individual shall be equal before the law'. It also provides that every individual shall be entitled to equal protection of the law. Furthermore, Article 7 [15] emphasises the right of every individual to have their causes heard and states the components of access to justice as follows: right of an appeal; right to be innocent until proven guilty by a court of tribunal; right to defence and to be defended by a counsel of choice; right to be tried within a reasonable time by an impartial court or tribunal.

9 UDHR 1948.
10 Ibid (7).
11 International Covenant on Civil and Political Rights 1966.
12 UN Principles and Guidelines on Access to Legal Aid.
13 African Charter on Human and Peoples' Rights adopted June 27, 1981.
14 Ibid.
15 Ibid 12.

Domestic

The legal framework for access to justice in Nigeria is enshrined in several key legislations, with the 1999 Constitution of the Federal Republic of Nigeria (as amended) as the foundational document. The Constitution, particularly in Section 17[16], establishes that every citizen has equality of rights, obligations and opportunities before the law. It recognises dignity of the human person, advices that governmental actions should be humane, prohibits the exploitation of human and natural resources except for the good of the community and guarantees that the courts shall be independent, impartial, maintain integrity and be accessible to all. Section 36 [17] guarantees the right to fair hearing within a reasonable time and before a competent court of tribunal of justice. Section 46 (1)[18] guarantees the right to access to justice through the court. It states that a person whose right under Chapter 4 of the Constitution, is likely to be, has been or is being violated, can seek redress before any High court in Nigeria.

The National Human Rights Commission (NHRC) Act, 2010 is a significant piece of legislation, that incorporates Nigeria's commitment to international human rights standards into its domestic legal system, particularly in relation to access to justice. The NHRC Act establishes the National Human Rights Commission as an independent entity tasked with promoting, protecting and enforcing human rights which includes the right to access to justice. The NHRC is mandated to monitor, investigate, and make remedial recommendations and decisions on human rights violations in Nigeria. The quasi-judicial powers of the Commission make the decisions and recommendations of the Commission equivalent to that of a high court

The Administration of Criminal Justice Act (ACJA)[19] aims to enhance the efficiency of Nigeria's criminal justice system by ensuring the speedy dispensation of justice, safeguarding society from crime, and protecting the rights and interests of suspects, defendants, and victims.

Legal Aid Council Act[20] provides for the establishment of legal Aid and access to justice fund from where financial assistance could be made available for council to provide legal representation for indigent citizens. Fundamental rights (enforcement procedure) rules[21] provides for the rules of procedure to be followed in the court in application for the enforcement or securing the enforcement of Fundamental Rights under Chapter 4 of the 1999 constitution and the African Charter on Human

16 Constitution of the Federal Republic of Nigeria, 1999 s 17(2)(a)(b)(c)(d)(e)
17 Constitution of the Federal Republic of Nigeria, 1999
18 Ibid 20
19 Administration of Criminal Justice Act, 2015
20 Legal Aid Council Act, 2011
21 Fundamental Rights Enforcement Procedure Rules, 2009 p 29

and Peoples Right (Ratification and Enforcement) Act. It also provides that a person can apply to a federal or state High court in Nigeria, including the FCT where a violation has occurred.

All of these legislation as well as the international and regional human rights instruments ensure that the right to access to justice is adequately provided for. They also ensure that the courts are responsible for enabling the enjoyment of the right to access to justice.

The Role of the Courts as a Redress Mechanism for the Promotion, Protection and Enforcement of Human Rights.

The courts system is a very important component in the promotion and protection of human rights because it serves as an accountability and redress mechanism to ensure that human rights violations are remedied. The relationship between access to justice and human rights protection stems from the fact that it is only when individuals have access to the courts that they can seek for the protection of their basic rights.[22] Such access include the right to be heard, the right to enforce judgments or decisions, right to fair hearing in open before a competent court, right to speedy trial, right to legal representation as well as right of appeal. In other words, the legal and institutional structures existing in a system may be such as to preclude the citizens from having access to the courts, who are therefore unable to seek for the enforcement or protection of their basic rights.[23]

While some of these legal and institutional mechanisms may have been put in place to achieve particular objectives, they may indeed constitute formidable obstacles to the promotion and protection of human rights. Yet other obstacles may be traceable to the structure and composition of the political and economic systems operative in a given country. In the case of Nigeria, it does appear that a combination of the obstacles in the first and second categories has led to a systemic inability of the legal order to guarantee access to justice in the country. The importance of this second class of obstacles stems from the fact that for a third world country such as Nigeria, where the level of illiteracy is unacceptably high, and the conditions of existence extremely difficult for people to make out a living, issues concerning human rights protection necessarily take a secondary position in the scheme of things.[24] This means that where the courts are not accessible because of any legal or institutional structure, as well as the, economic and Political systems

22 S Brazil, 'Access to Justice and Human Rights Protection in Nigeria: Problems and Prospects', <https://www.scielo.br/j/sur/a/cw3P7DkTxbwncFJTWXJ5dNK/?lang=en> accessed 31 July 2024.

23 Ibid (24).

24 Ibid (24).

operative in any given system it will amount to a violation of human right as well.

Factors Interfering with Access to Justice through the Courts in Nigeria

Several factors interfere with the right to access to justice through the courts, such factors include:

Illiteracy

A lot of litigants are either not educated or do not have an adequate understanding of the law, how it should be applied, how the court systems works and how the legal system works generally. This has caused a lot of them to resort to non-legal methods or to forgo their rights all together.

Cost of Legal Representation

One of the major obstacles in accessing justice is the cost of legal advice and representation. Legal aid programmes are a central component of strategies to enhance access to justice.

Delay in Administration of Justice

A lot of technicalities such as the effect of some constitutional provisions, undue reliance on technical rules, Locus standi, Poor enforcement of court judgments and rulings, impunity and a lot more, causes undue delay in the administration of justice. This also causes discouragement in the mind of the litigant and ultimate forfeiture of their cases, thereby denying them access to justice.

Recommendations

Independence of the Judiciary

The independence of the judicial system, together with its impartiality and integrity, as an essential prerequisite for upholding the rule of law and ensuring that there is no discrimination in the administration of justice.[25]

Enhancement of the Legal aid Scheme

All relevant stakeholders in the justice sector should provide support in strengthening justice in areas including: monitoring and evaluation; empowering the poor and marginalized to seek response and remedies for injustice; improving legal protection, legal awareness, and legal aid;

25 United Nations and the Rule of Law, 'Access to Justice' <https://www.un.org/ruleoflaw/thematic-areas/access-to-justice-and-rule-of-law-institutions/access-to-justice/> accessed 12 August 2024.

civil society and parliamentary oversight; addressing challenges in the justice sector such as police brutality, inhumane prison conditions, lengthy pre-trial detention, and impunity for perpetrators of sexual and gender-based violence and other serious conflict-related crimes; and strengthening linkages between formal and informal structures.[26]

Strengthening Capacities
There is a need to support the provision of legal aid by strengthening capacities of rights holders, enhancing legal aid programmes empowering rights holders, particularly the poor and marginalized groups, and supporting legal awareness and legal aid clinics and public outreach campaigns

Technology
More technological tools such as artificial intelligent, fast messaging, zoom court sessions should be utilized to expedite court sessions**.**

Conclusion
This chapter has stated the role that the courts play in access to justice. Commitment to access to justice through the courts as a human right should be part of our general mandate as a people and as human rights defenders. If the recommendations prescribed above are applied, it will go a long way to enable access to justice and reduce human rights violations in this regard.

Some of the Complaint Received by the Commission on Access to Justice and Human Rights Promotion and Protection are as follows

C/2024/VG/153/ADSO
The Commission received a complaint dated 10th October 2024 from XY alleging that in mid-September2024 at Sabon Pegi Bare Ward Ngbalang Numan LGA Adamawa State. Their client paid a visit to his Soya beans farm and discovered a long ditch over 200 meters dogged at the center of his farm with a hip of sand burying quite a large portion of his Soya beans farm and all efforts for Savannah Sugar Company to compensate him for destroying the farm proved futile. The matter was admitted for investigation and intervention.

C/2024/ESCR/151/ADSO
The Commission received a complaint dated 10th October, 2024 from **Y** alleging that for the past 5 months the company Galaxy Network

26 Ibid 27.

Services he was working for as a security personnel, refused to pay him his outstanding salaries despite all efforts at Hayin Gada Vunoklang Girei LGA Adamawa State. The matter was admitted for investigation and intervention.

C/2024/CPR/148/ADSO
The Commission received a complaint dated 2nd October, 2024 from XY alleging that on 27th September 2024, his brother an electrician was invited by the State CID Nigerian Police Force and after taking his statement he was wrongly accused and detained without further inquiries. XY stated that they claimed he had connived with a client and sold off a Toyota Bus the client had brought for repairs at his workshop. The matter was admitted for investigation and intervention.

C/2024/CPR/170/ADSO
The Commission received a complaint dated 6th December, 2024 from Y alleging that on 1st December, 2024 by 8:12pm Operation D5 arrested him and his fiancé at Target Junction Jimeta Yola Adamawa State and were taken to Police Headquarters where one Police Officer slapped him and still collected the sum of 5 thousand naira. The matter was admitted for investigation and intervention.

C/2024/ESCR/311/ENUGU
The Commission received a complaint dated 30th October, 2024, from X, residing at Ugbene II Abakpa Nike, Enugu State. She alleged that her mother-in-law has been discriminating against her and marginalizing her from the family following the death of her husband. X is seeking the Commission's intervention. Following a preliminary interview, the Commission sent an invitation letter to the respondent. Mediation was conducted, resulting in a resolution of the issue. The case is recommended for closure.

C/2024/CPR/344/ENUGU
The Commission received a complaint dated 21st November, 2024 from Y who resides at Agolo Village Ugwuoba, Oji River LGA Enugu State. He alleged that his kinsmen reported him to his Village General Assembly and the Chairman of the General Assembly ex-communicated both him and all his family members. He pleads for the Commission’s intervention. An interview was conducted and a letter was written to the Traditional Ruler of the town who mediated on the matter and settled the issue.

C/2024/CPR/361/ENUGU
The Commission received a complaint dated 3rd December, 2024 from Y alleging inhuman and degrading treatment meted out on him by the President General (PG) of his community using OPTOPUS Squad Unit of Enugu Police Command and he was detained for four days.

C/2024/ESCR/347/ENUGU
The Commission received a complaint dated 22nd November, 2024 from Y alleging that his wife has in the habit of abusing his right to private and family life at Ogbodo Ugwu Street, Olympic Layout, One-Day, Awkunanaw in Enugu South L.G.A. of Enugu State.

C/2024/ESCR/315/ENUGU
The Commission received a complaint dated 1st November, 2024 from X alleging that Y her husband whom he resides with at Ugboezeji, Abakpa, Enugu for over 30 years does not provide money for her upkeep and has sold their shop without giving her a dime. She also stated that she has complained to their children and her husband's relatives but her husband has refused to obey their resolutions hence her complaint to the Commission.

C/2024/CPR/126/JG
The Commission received a complaint dated 6th November, 2024 from Y of Durufda village, Guri local government Jigawa state against Y and Upper Shari'a Court Hadejia local government. The complainant alleged that the respondent left his animals to destroy his farm crops worth ₦1,700,000 (one million seven hundred thousand naira) only. The matter is now before in court, were the alleged violator was granted bail without any condition and series of adjournments were made without any progress on the matter.

C/2024/CPR/119/JG
The Commission received a complaint dated 11th November, 2024 from Y of Sabuwar Takur Dutse local government, Jigawa state against Y and Nigeria Police Force Dutse Division for an alleged deformation of character which led to his unlawful arrest and detention for more than 24hours at Dutse Police Division on 22nd October 2024.

C/2024/CPR/117/JG
The Commission received a complaint on October 29th 2024 from Y, a resident of Yalwawa Quarters, Dutse Local Government Area, Jigawa State, against an officer of the Nigeria Police, Dutse Division. The complainant alleged inhuman and degrading treatment in connection

with a matter reported to the division involving his daughter on October 27, 2024.

C/2024/CPR/199/JG
The Commission received a complaint dated 5th November, 2024 from Y of Sabuwar Takur Dutse local government Jigawa state, alleging that his neighbour connived with police and arrested him on false allegation thereby resulting in his illegal detention.

C/2024/CPR/112-116/JG
The Commission received a complaint dated 22nd October, 2024 from XY of GSS Garki quarters, Garki local government area, Jigawa state. The complainant alleged that the Nigerian Police Outpost Doko Jigawa state of unlawful arrest and detention of his brother and four (4) others from 20th October, 2024 till date. The complainant further lamented that all efforts made to secure their bail was futile.

C/2024/CPR/116-118/JG
The Commission received a complaint dated 18th December, 2024 from XY of Juwan Tudu, Birnin Kudu local government area, Jigawa state against the Nigeria Police Birnin Kudu Division for an alleged unlawful arrest and detention of his brother and two (2) others on 16th December, 2024 at Birnin Kudu behind School of Nursing. He further lamented that all efforts made to secure their bail prove abortive

C/2024/CPR/145-150/JG
The Commission received a complaint on 26th November 2024, from Y a resident of Jidawa Village, Dutse Local Government Area, Jigawa State. The complainant alleged that his neighbour, also from the same location, intimidated and threatened his life while also defaming his character on October 6th, 2024, at his farm in Jidawa Village. Y further expressed frustration that the matter is currently before a court, but multiple adjournments have hindered his access to justice.

C/2024/CPR/111/JG
The Commission received a complaint on 24th December 2024, from Y, a resident of Hayin Tara Doro Village, Jahun Local Government, Jigawa State, against the Upper Sharia Court in Jahun. The complaint alleges denial of access to justice concerning a pending matter before the court since August 2024.

C/2024/CPR/027/KTN
The Commission received a complaint dated 5th February 2024 from Y alleging that X his mother was seriously beaten by men of the Nigeria

Police Force. The matter was admitted for investigation and intervention. After visiting the police station and with the intervention of the Commission the matter was charged to court, and the Commission will continue to monitor the case until justice prevails.

C/2024/CPR/025/KTN
The commission received a complaint dated 2nd February 2024 from Y alleging XY Watch Guards beat one Y aged 6 years for an undisclosed offence as a result of such beating the victim sustained several injuries all over his body. The matter was admitted for investigation and intervention.

C/2024/CPR/036/ANS
The Commission received a complaint dated 8th February 2024 from Y alleging that X, his tenant, a keke woman who claimed to have quarrelled with her husband and wanted a place to stay for the meantime. He further alleged that she became a thorn in his flesh since last year and has been threatening to deal with him just because he told her children to join in cleaning the compound. He also alleged that he reported him to her Police friends and he was summoned to Area Command Amawbia Awka. He wants the Commission to assist him. The matter was admitted for investigation and intervention.

C/2024/CPR/038/ANS
The Commission received a complaint dated 9th February, 2024 from X, she alleged that Y her neighbour has been threatening her life, and on 6th February 2024, he bashed into their bathroom while taking her bath, flung the door open and stood there staring at her nakedness. She further alleged that his family members do not assist in carrying out the agreed routine of washing the toilet according to the routine. She alleged that every attempt to call him to order was futile. The matter was admitted for investigation and intervention.

C/2024/CPR/026/ANS
The Commission received a complaint dated 1st February 2024 from Y alleging X that his Landlord's wife is threatening his life. Y further alleged that his Landlord's wife is in the habit of harassing him at will. He further alleged that on a certain occasion the landlord's wife poured sand and rat faeces into his bathing water. He is pleading to the Commission to intervene in the matter. It was admitted for investigation and intervention.

C/2024/CPR/028/KTN
The Commission received a complaint dated 6th February 2024 from XY alleging that XY four members of vigilante groups had been harassing

and insulting him and his wife. The matter was admitted for investigation and intervention.

C/2024/CPR/141KD
The Commission received a complaint dated 09th May, 2024 from X alleging that an XY officer of JTF who beat and tortured Y, her nephew seriously and when she told him to stop beating, he started insulting her. The matter was admitted for investigation and intervention.

C/2024/CPR/040/ANS
The Commission received a complaint dated 9th February, 2024 from Y alleging that he was unlawfully arrested and detained on 6th October, 2023 by XY the men of the Nigeria Police Force and was later released on the 19th October, 2023. He further alleged that the security operatives have since then been coming back to his apartment with the intention of re-arresting him that their unlawful activity has deserted his hometown. The matter was admitted for investigation and intervention.

C/2023/CPR/236/KD
The Commission received a complaint dated 3rd August, 2023 from Y alleging that X his Ex-girlfriend had been pressuring him for sex and set him up where his phone was taken away from him. The matter was admitted for investigation and intervention.

C/2024/CPR/056/KTN
The Commission received a complaint dated 14th March 2024 from Y alleging that Y beat him up for accusing him of a stolen handset that had already been found. The matter was admitted for investigation and intervention. And with the intervention of the Commission the matter was resolved and the alleged violator apologizes to him.

C/2024/CPR/138/KD
The Commission received a complaint dated 7th May, 2024 from XY alleging XY Nigeria police unlawfully arrested and detained Y his younger brother for no reasons. The matter was admitted for investigation and intervention.

C/2024/CPR/178/KD
The Commission received a complaint dated 11th June, 2024 from XY alleging that XY the Nigerian Police force arrested and detained Y their 14 years old boy and 15 years old boy. XY alleged that the boys were innocent. They want the Commission to intervene for justice.

C/2024/WC/14/0KD
The Commission received a complaint dated 9th May, 2024 from X alleging that XY Armed Force Command and Staff College had detained Y, her husband and they refused her access to him. The matter was admitted for investigation and intervention.

C/2024/CPR/177/KD
The Commission received a complaint dated 11thJune, 2024 from Y alleged denial of access to justice. He further alleged that Y their grandfather sued his brother to court and had him detained at the correctional centre despite his innocence. He also alleged he was granted bail, and they refused to bail him. He therefore seeks justice. The matter was admitted for investigation and intervention.

C/2024/CPR/194/KD
The Commission received a complaint dated 26th June, 2024 from XY alleging unlawful search of their room by XY Nigeria Police, Kaduna state Command. The complainant wants the Commission to intervene. The matter was admitted for investigation and intervention

C/2024/CPR/041/ANS
The Commission received a complaint dated 13th February, 2024 from Y alleging that his village union had excommunicated him and his family members from any form of association with the residents, based on a false allegation of theft labelled against him. He further alleged that this singular action has made it difficult for his family to cope. The matter was admitted for investigation and intervention.

C/2024/CPR /113/KD
The Commission received a complaint dated 16th April, 2024 from Y alleged denial of access to justice from XY Upper Sharia Court, Makera, Kaduna state. He further alleged that respondent was set free without justice prevailing. The matter was admitted for investigation and intervention.

C/2024/CPR/185/KD
The Commission received a complaint dated 19th June, 2024 from Y alleged assault and threat to life against Y his landlord. He further alleged that he slapped him and threatened him for not paying his house rent just 4 days after his due date and he repeated same when he had made a part payment. The matter was admitted for investigation and intervention.

C/2024/CPR/069/ANS
The Commission received a complaint dated 13th March, 2024, from X, a retired teacher alleged that X her sister in-law accused her of carrying out fetish activities in their family compound. She further alleged that her in-laws also instructed their children to be passing their waste products at her own apartment instead of using the water cistern in their building. The matter was admitted for investigation and intervention.

C/2024/CPR/006/ENUGU
The Commission received a complaint dated 11th January 2024 from X alleging that Y her ex-husband had been frustrating her of getting married to another suitor after collecting back his bride price. She also alleged that all efforts to resolve the matter prove abortive hence. She came to the Commission to seek justice. The matter was admitted for investigation and intervention.

C/2024/CPR/002/KGS
The Commission received a complaint dated 12th February 2024 from X on behalf of Y, whom she claimed was murdered by the respondent by hitting him with a plank on the head during an altercation in Ibaji quarters of Lokoja on 30th January 2024. She further stated that the attack came after a series of other earlier attacks on the victim and his family, which she alleged were reported to the Police. X stated that the alleged violator was arrested after the incident, only to be seen again walking around freely two days after the arrest and boastfully stating that his financial means will keep him out of detention. The complainant sought the intervention of the Commission to redress the matter and access justice on the matter. The complaint was admitted for investigation.

C/2024/CPR/001/KW
The Commission received a complaint dated 9th January, 2024 from Y of Zone 4 Temidire Airport Road, Ilorin Kwara State, alleging that the Economic and Financial Crimes Commission EFCC Ilorin accused him of conspiracy with a Hausa man. The matter was admitted for investigation and intervention.

C/24/CPR/072/LAG
The Commission received a complaint dated 21st February, 2024 from Y alleging XY police station of unlawful arrest and detention in Lagos state. The complainant wants the Commission's intervention. The matter was admitted for investigation and intervention.

C/24/LEG/073-074/LAG
The Commission received a complaint dated 27th February, 2024 from X alleging XY police station of unlawful arrest and had detained him for no reasons. He wants justice. The matter was admitted for investigation and intervention.

C/2024/CPR/235-237/RSO
The Commission received a complaint dated 15th March 2024 from XY of Abonema Rivers State alleging that two boys took his son's phone which they later recovered from them, the boys came to the hotel where his son lodged (as they were renovating their house) and fought them, the owner of the hotel arrested all of them and kept them with the Anti-cultism Police Unit, he alleged that his son's phone got lost during the fight. The Anti-cultism Unit tortured the boys for days until the commission came into the matter and they were released immediately.

C/2024/WC/051/ANS
The Commission received a complaint dated 27th February 2024 from X against X her sister-in-law whom she alleged that she seized her deceased husband's landed properties ATM card and other valuables and that every effort made to ensure she released the documents proved abortive. The matter was admitted for investigation and intervention.

C/2024/ESCR/18/ENUGU
The Commission received a complaint dated 24th January 2024 from X alleging that X a woman in her community abused her right to dignity and chased her away from her matrimonial home. She further alleged that she was accused of selling her child. X sought the intervention of the Commission. The matter was admitted for investigation and intervention.

C/2024/CPR/136/BSO
The Commission received a complaint dated 15th February, 2024 from X against Y of Ngomari Old Airport Area Maiduguri. X is alleging Case of Defamation of Character by Y. X sought for the intervention of the Commission. The Commission admitted the complaint and the matter was settled amicably.

C/2024/WC/247/BSO
The Commission received a complaint dated 20th March, 2024 from Y against X of Shuwari Bolori II Area Maiduguri. Y alleged that X threatened and maltreated him. Y sought for the intervention of the Commission. The Commission admitted the complaint and invited both

parties and at the end of the mediation, the complainant requested the Commission to refer the case to the Police Station.

C/2024/CPR/235/BSO
The Commission received a complaint dated 15th March, 2024 from Y against Y of Polo High Court Area Maiduguri. Y alleged a case of breach of trust by the respondent. Y sought for the intervention of the Commission. The Commission admitted the complaint and the matter was settled amicably.

C/2024/CPR/237/BSO
The Commission received a complaint from X against Y on the 18th March, 2024 from Legacy Estate Area Maiduguri. X alleged a case of inheritance dispute between Y. X sought for the intervention of the Commission. The Commission admitted the complaint and the matter was settled amicably.

C/2024/CPR/229/BSO
The Commission received a complaint dated 14th March, 2024 from Y against XY Command Day School from Old GRA NIPOST Quarters Area, Maiduguri Borno State. Y alleged a case of inhuman treatment and degrading, torture by the Nigerian Army (Command Day School). Y has sought the intervention of the Commission. The Commission admitted the complaint and letter was written to 7 Division Maiduguri.

C/2024/CPR/011/JG
The Commission received a complaint dated 14th February 2024 from Y of Babura Kofar Fada against the Economic and Financial Crime Commission (EFCC), Kano Command for alleged denial of access to justice and right to fair hearing on a matter before it on 9th March 2022 at EFCC Kano Zonal Command.

C/2024/CPR/008/JG
The Commission received a complaint dated 29th January 2024 from Y of Atiku village, Itas Gadau Local Government, Bauchi State against YY of the same address. The complainant stated that he filed a case before the lower Shari'a Court, Itas Gadau Local Government, Bauchi State on 17th January 2024. The Court's verdict was in his favor. The court ordered YY to pay him compensation which Y failed to comply with. Y claimed that all efforts to enforce the judgment through the court failed.

C/2024/CPR/003-004/JG
The Commission received a complaint dated 2nd January 2024 from X of Babura Kofar Yamma Babura Local Government, Jigawa State against

the Higher Shari'a Court, Babura Jigawa State for an alleged delay in justice on a matter before it since 7th November 2023.

C/2024/CPR/084/RSO
The Commission received a complaint dated 24th January 2024 from XY of Ogbunabali Port Harcourt alleging that his brother was brutally battered by two village thugs at their village hall meeting with the approval of two elders that convened the meeting, the victim died two days later as a result of spinal and head injuries he sustained from the battery, the complainant seeks that the elders that aided the crime be prosecuted.

C/24/CPR/321/LAG
The commission received a complaint dated 20th May 2024, from Y alleging that YY violated his rights by conniving with and failing to prosecute a person who defrauded him of the sum of 2.3 million naira. The matter was admitted for investigation and intervention.

C/24/ESCR/362/LAG
The Commission received a complaint dated 7th June 2024 from Y. He alleged that XY appealed a labour matter at the Supreme Court. He also stated that the matter came up for the first time in 2020 and was adjourned to 2023. He further stated that 3 years after, 20th November 2023, being the last adjourned date, his matter was not listed for hearing, and neither was any reason given nor notification for the next possible adjourned date. The matter was admitted for investigation.

C/2024/CPR/184/DEL
The Commission received a complaint dated 16th April, 2024 from XY against Y for legal advice on bail proceed issue on ground which was later settled amicably after the Commission's advice. This incident happened in Okpanam Divisional Police in Delta State.

C/2024/CPR/374-375/OS
The Commission received a Complaint dated 19th of June 2024 from Y residing in Osogbo, Osun state who is the son of X (the victim) alleging another Y (neighbour) of gross physical violence. The complaint was received and investigated.

C/2024/CPR/053-056/BAY
The Commission received a complaint from XY dated the 23rd April 2024, alleging that some men of the Nigeria Police Force (Ekeki Division) arrested the victim on the 20th April, 2024, in his home town in Etegwe-Epie Community, Yenagoa L.G.A. in Bayelsa State, over allegations he

knows nothing about and started torturing him, leaving him with injuries on his body.

C/2024/CPR/ 059/ BAY
The Commission received a complaint dated the 29th April, 2024, from Y alleging that, men of the Nigerian Army, came to his house on the 24th April, 2024, in Azikoro community, Yenagoa, in Bayelsa State, destroying valuables and took away his International Passport.

C/2024/ CPR/060/BAY
The Commission received a complaint dated 10th May, 2024 from X alleging that on the 3rd May, 2024, a misunderstanding occurred at their residence in Elebele Community over a torch light. She further alleged that on the 5th of May, 2024, on her way to Church, the respondent attacked her and threatened to kill her over the issue of torchlight.

C/2024/CPR/062/BAY
The Commission received a complaint from X dated the 24th May, 2024, alleging that, she was beaten to coma by a military woman and her colleague on the 15th May, 2024, due to misunderstanding they had regarding a palm kernel business in her community in Elebele, Ogbia L.G.A. of Bayelsa State. The complaint was admitted for investigation and the Commission intervened.

C/2024/CPR/071-072/BAY
The Commission received a complaint dated 30th May, 2024 from X alleging that on the 28th of May, 2024, she was attacked and bathed with hot oil by the respondent who is a relation of her Madam, owner of XY Restaurant, Biogbolo, Yenagoa where she works as a cook. She further alleged that as a result of this attack she sustained injuries. Furthermore, she alleged that her madam owes her three months unpaid wages. The complaint was admitted for investigation and the Commission intervened.

C/2024/CPR/073-076/BAY
The Commission received a complaint dated 7th of June 2024, from XY alleging that his client's/victim's community (Agbura in Yenagoa L.GA of Bayelsa State) was thrown into confusion at about 2am mid night on the 29th May, 2024 with sounds of gunshots by the Nigerian Police Force (PUFF ADDER UNIT) which resulted to destruction of properties worth millions of naira and gunshot wounds suffered by many indigenes of the community. He alleged further that the incident was as a result of an attempt by the NPF to arrest a suspect in a land dispute matter. The complaint was admitted for investigation and the Commission intervened.

Chapter 14

CORRUPTION AND HUMAN RIGHTS: IMPLICATION FOR GOOD GOVERNANCE

By

Chioma Okoli*

Introduction

Corruption is a pervasive problem that transcends borders, affecting countries regardless of their level of development.[1] It is a significant obstacle to good governance, undermining the rule of law, eroding public trust, and impeding economic and social progress. The implications of corruption extend beyond economic inefficiency and political instability, deeply impacting human rights and the broader governance landscape. Human rights, enshrined in various international and regional instruments, represent the fundamental rights and freedoms to which every individual is entitled. These rights are interconnected with governance structures, and any disruption in governance, such as that caused by corruption, can lead to the violation of these rights. The relationship between corruption and human rights is complex, as corruption not only directly infringes on human rights but also indirectly affects the capacity of governments to fulfill their human rights obligations.[2]

Good governance, characterised by principles such as accountability, transparency, rule of law, and participation, is essential for the realisation of human rights. Corruption, however, poses a significant threat to these principles, distorting decision-making processes and hindering the equitable distribution of resources.[3]

As reported by Nigerians, corruption ranked 4th among the most important problems affecting the country in 2023, after the cost of living,

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1Transparency International, *Corruption Perceptions Index (*2019) (Transparency International 2019) <https://www.transparency.org/en/cpi/2019> accessed 5 August 2024.

2 United Nations Office on Drugs and Crime, *Corruption and Human Rights: Making the Connection'* (United Nations 2021) <https://www.unodc.org> accessed 5 August 2024.

3 World Bank, *World Development Report 2020: Trading for Development in the Age of Global Value Chains* (World Bank 2020)< https://www.worldbank.org> accessed 19 August 2024.

insecurity and unemployment.[4] This suggests relatively stable and high levels of concerns about corruption over time and compared to other concerns such as education or housing. Nigerians' confidence in the government's anti-corruption effort has been declining over time and across regions. While in 2019, more than half of all citizens thought that the government was effective in fighting corruption, in 2023, the share declined to less than a third of all citizens. The downward trend in the citizens' confidence is observable across the entire country, with all six zones recording reductions of more than 10 percentage points between 2019 and 2023 in terms of the share of citizens who thought the government was effective in fighting corruption.[5]

This chapter explores the relationship between corruption, human rights, and good governance. It aims to provide a comprehensive analysis of how corruption undermines human rights and impedes good governance, drawing on legal frameworks and case studies. The chapter concludes with recommendations for strengthening legal and institutional frameworks to combat corruption and promote good governance.

Conceptual Clarifications

A. Corruption

Corruption is broadly defined as the abuse of entrusted power for private gain. It erodes trust, weakens democracy, hampers economic development and further exacerbates inequality, poverty, social division and the environmental crisis.[6] It manifests in various forms and can be classified into different types, each with distinct characteristics and consequences.[7]

Forms of Corruption

The United Nations Convention Against Corruption (UNCAC) addresses various forms of corruption including the underlisted:

***Bribery*:** The offering, giving, receiving, or soliciting of something of value as a means to influence the actions of an official or other person in charge of a public or legal duty.[8] Bribery can occur in various contexts,

4 United Nations Office on Drugs and Crime, *Corruption in Nigeria: Patterns and Trends*, (July2024), <UN_nigeria24_exec_sum_final.indd (unodc.org)> accessed 5 August 2024.

5 Ibid.

6 Transparency International, *'What Is Corruption'* https://www.transparency.org/en/what-is-corruption accessed 31 July 2024.

7 Ibid

8 B A Garner (ed)*, Black's Law Dictionary (11th edn, Thomson Reuters 2019)* s.v. *'Bribery'*

including public procurement, judicial proceedings, and regulatory approvals.

***Embezzlement*:** The theft or misappropriation of funds or property entrusted to one's care, particularly by public officials or employees.[9] Embezzlement diverts resources from their intended public purposes, leading to the erosion of public trust and the failure of public services.

***Fraud*:** Wrongful or criminal deception intended to result in financial or personal gain.[10] Fraud in the public sector often involves the manipulation of information, such as falsifying records or inflating invoices, to misappropriate funds.

***Extortion*:** The practice of obtaining something, especially money, through force or threats.[11] Extortion is particularly prevalent in law enforcement and regulatory bodies, where officials may demand payments to avoid penalties or legal actions.

***Nepotism and Cronyism*:** Favoritism granted to relatives or close friends without regard to their qualifications or merit.[12] Nepotism and cronyism undermine the principles of meritocracy and fairness, leading to inefficiency and public disillusionment.

Types of Corruption

***Petty Corruption*:** Everyday abuse of entrusted power by public officials in their interactions with ordinary citizens, who often are trying to access basic goods or services in places like hospitals, schools, police departments and other agencies.[13] Small-scale, everyday corruption involving low-level officials and minor transactions. Petty corruption, though often involving small sums, can have a cumulative effect, particularly on vulnerable populations who may be forced to pay bribes for basic services.

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9 B A Garner, *Black's Law Dictionary* (11th edn, Thomson Reuters 2019) s.v. 'Embezzlement'.

10 Oxford English Dictionary (OED) Online, '*Fraud'* https://www.oed.com accessed 7 August 2024.

11 B A Garner, Black's Law Dictionary (11th edn, West 2019).

12 ibid.

13 Transparency International, *'Petty Corruption'* <https://www.transparency.org/en/corruptionary/pettycorruption#:~:text=Everyday%20abuse%20of%20entrusted%20power%20by%20public%20officials,like%20hospitals%2C%20schools%2C%20police%20departments%20and%20other%20agencies.> accessed 10 August 2024.

***Grand Corruption*:** Grand corruption is the abuse of high-level power that benefits the few at the expense of the many. It involves high-level officials, is carried out on a large scale, and causes serious and widespread harm.[14] It is large-scale corruption that occurs at the highest levels of government, involving significant sums of money and often leading to the distortion of national policies and priorities. Grand corruption typically involves high-ranking officials and has far-reaching consequences for governance and development.[15]

***Systemic Corruption*:** Corruption that is deeply entrenched in the political, social, and economic systems of a country.[16] Systemic corruption is characterised by the widespread acceptance of corrupt practices as a norm, leading to the erosion of ethical standards and public trust.

B. Human Rights

Human rights are the basic rights and freedoms to which all human beings are entitled.[17] These rights are universal, inalienable, and interdependent, and they can be categorised into three main types:

Civil and Political Rights: They are a category of human rights that protect individuals' freedoms from infringement by governments, social organisations, and private individuals. These rights ensure the ability of all citizens to participate in the civil and political life of their society without discrimination or repression.[18]These include the right to life, freedom of expression, equality before the law, and the right to participate in political life. Civil and political rights are essential for the protection of individual freedoms and the functioning of democratic societies.

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14 Transparency International, *'Tackling Grand Corruption Impunity'* (27 November 2023), <https://www.transparency.org/en/publications/tackling-grand-corruption-impunity#:~:text=Grand%20corruption%20is%20the%20abuse%20of%20high-level%20power,the%20perpetrators%20often%20enables%20them%20to%20escape%20accountability.> accessed 10 August 2024.

15 Ibid.

16 M Pohlmann, '*Systemic Corruption—How to Analyze and Measure It*, In: M E Trombini and others (eds), *The Fight against Systemic Corruption. Organisation, Management and Crime – Organisation* (Springer VS, Wiesbaden 2024) <https://doi.org/10.1007/978-3-658-43579-0_2> accessed 10 August 2024. 2024'.

17 United Nations Human Rights Office of the High Commissioner, *'What are Human Rights'* <https://www.ohchr.org/en/what-are-human-rights> accessed 12 August 2024.

18 International Covenant on Civil and Political Rights 1966.

Economic, Social, and Cultural Rights: They are a category of human rights that focus on the conditions necessary for individuals to live with dignity and participate fully in society. These encompass the right to work, the right to an adequate standard of living, the right to health, and the right to education. These entitlements are to ensure that individuals can meet their basic needs and enjoy a decent standard of living.[19]Economic, social, and cultural rights are crucial for the well-being and development of individuals and communities.

Collective Rights: They refer to the rights held by a group rather than by its individual members. These include the rights to self-determination, development, and peace. These rights are often associated with specific groups, such as indigenous peoples, ethnic minorities, or communities, and they encompass various aspects including cultural, social, economic, and political dimensions.[20] Collective rights recognise the importance of group identities and collective interests, particularly in the context of marginalized and indigenous communities.

C. Good Governance

Good governance refers to the effective and responsible management of public resources and affairs by state institutions. It is characterized by the following principles:

Accountability: Public officials must be accountable for their actions and decisions, and they must be answerable to the public and to their governing bodies.[21] Accountability mechanisms include checks and balances, transparency, and oversight by independent institutions.

Transparency: It means shedding light on formal and informal rules, plans, processes and actions.[22] The processes, institutions, and information of governance should be open and accessible to the public. Transparency ensures that decisions are made openly and that the public can hold officials accountable for their actions.

Rule of Law: It is a fundamental principle that asserts that all individuals and institutions are accountable to the law, which must be fairly applied and enforced.[23] The legal framework should be fair, consistent, and

19 International Covenant on Economic, Social and Cultural Rights 1966.
20 United Nations Declaration on the Rights of Indigenous Peoples 2007.
21 Principles of Democracy, 'Government Accountability' <https://www.principlesofdemocracy.org/government-dem> accessed 11 August 2024.
22 Transparency International, n 6.
23 A V Dicey, *Introduction to the Study of the Law of the Constitution* (8th edn 1915).

enforced impartially. The rule of law is essential for protecting individual rights, maintaining social order, and ensuring that justice is administered without favoritism or prejudice.

Participation: All members of society should have the opportunity to participate in decision-making processes, either directly or through legitimate representatives.[24] Participation is a key element of democratic governance and ensures that the voices of all citizens are heard and considered.

Equity and Inclusiveness: Governance should ensure that all members of society have equal access to opportunities and resources.[25] Equity and inclusiveness are essential for addressing social inequalities and promoting social cohesion.

Legal Framework and Institutions

International and Regional Legal Frameworks

United Nations Convention against Corruption (UNCAC)

The UNCAC is the only legally binding universal anti-corruption instrument, adopted by the United Nations General Assembly in 2003.[26] It provides a comprehensive framework for the prevention of corruption, criminalisation of corrupt practices, international cooperation, and asset recovery. The UNCAC emphasises the connection between corruption and human rights, recognising that corruption undermines institutions and values such as democracy, ethical values, and justice. It also highlights the need for international cooperation in the fight against corruption, given its transnational nature.

24 S Nissen, '*Political Participation: Inclusion of Citizens in Democratic Opinion-Forming and Decision-Making Processes'*, In: W Leal Filho and others (eds), *Peace, Justice and Strong Institutions. Encyclopaedia of the UN Sustainable Development Goals* (Springer, Cham 2021) <https://doi.org/10.1007/978-3-319-95960-3_42> accessed 12 August 2024.

25 United Nations Development Programme, *'Governance for Sustainable Development'* (2021) < https://www.undp.org/publications/governance-sustainable-development> accessed 12 August 2024.

26 United Nations Convention against Corruption adopted by General Assembly resolution 58/4 of 31 October 2003 <https://www.unodc.org/unodc/en/treaties/CAC/> accessed 19 August 2024.

African Union Convention on Preventing and Combating Corruption (AUCPCC)

The AUCPCC is a regional instrument adopted by the African Union in 2003 to address corruption on the continent.[27] It sets out preventive measures, criminalisation requirements, and mechanisms for cooperation between states. The AUCPCC also recognises the role of civil society in combating corruption and emphasises the need for transparency, accountability, and good governance as essential components of the fight against corruption.

European Union (EU) Anti-Corruption Policies

The EU has implemented several measures to combat corruption within its member states, including the adoption of anti-corruption reports, the establishment of a framework for financial sanctions, and the promotion of transparency and accountability in public procurement.[28] The EU's anti-corruption efforts are guided by the principles of good governance, the rule of law, and respect for human rights, reflecting the interconnectedness of these issues.

Domestic Legal Frameworks

Nigeria's legal framework for combating corruption includes several key institutions and laws, such as:

Constitution of the Federal Republic of Nigeria 1999 (as amended)

The Constitution of the Federal Republic of Nigeria 1999 (as amended) is the supreme law of the land and provides the foundational framework for governance, including state obligations and the protection of human rights as contained in chapters 2 and 4.[29] Corruption in Nigeria often undermines these constitutional protections, as it leads to the misallocation of resources meant for public welfare, thereby violating the rights of citizens to education, health, and security. The Constitution also establishes the Code of Conduct Bureau and the Code of Conduct Tribunal, which mandates asset declaration by public officials as a measure to curb corruption.[30]

However, while the Constitution provides the legal basis for anti-corruption efforts, its provisions are often undermined by weak

27 African Union Convention on Preventing and Combating Corruption 2003 <https://au.int/en/treaties/african-union-convention-preventing-and-combating-corruption> accessed 19 August 2024.

28 EU Anti-Corruption Report (European Commission 2014) <https://ec.europa.eu> accessed 19 August 2024.

29 Constitution of the Federal Republic of Nigeria 1999 (as amended), chapters 2 and 4.

30 Ibid, 3rd sch pt 1(1) and 5th sch pt 1(15).

enforcement, political interference, and systemic corruption, which limit the effectiveness of legal remedies and the protection of human rights.

Corrupt Practices and Other Related Offenses Act (2000)

The Corrupt Practices and Other Related Offences Act, 2000 is the enabling legislation for the ICPC.[31] It outlines the offences related to corruption, including bribery, fraud, and abuse of office, and provides the legal basis for the ICPC's operations.[32] The Act also stipulates penalties for various corrupt practices and empowers the ICPC to investigate and prosecute offenders.[33]

Despite the comprehensive nature of this law, its impact has been limited by challenges such as delays in the judicial process, the complexity of proving corruption cases, and the pervasive nature of corruption in the public sector, which makes enforcement difficult.

Economic and Financial Crimes Commission (Establishment, etc) Act, 2004

The Economic and Financial Crimes Commission (Establishment, etc) Act, 2004 is the foundational legal instrument that established the EFCC.[34] The Act defines the scope, powers, and functions of the EFCC, empowering it to investigate, prevent, and prosecute financial crimes, including but not limited to economic sabotage, money laundering, and corruption.

The EFCC Act grants the Commission the authority to investigate individuals, corporate bodies, and government officials suspected of financial crimes.[35] EFCC can summon, interrogate, and arrest suspects as part of its investigative process.[36] EFCC is empowered to seize and confiscate assets obtained through corrupt practices or other financial crimes. This includes freezing bank accounts, confiscating properties, and recovering funds siphoned from public coffers.[37] The EFCC Act allows the Commission to collaborate with international law enforcement agencies in the investigation and prosecution of financial crimes, recognising the global nature of many financial crimes.

31 Corrupt Practices and Other Related Offences Act 2000, No 5, LFN.
32 Ibid, ss 8 - 19.
33 Ibid, ss 20 - 26
34 Economic and Financial Crimes Commission (Establishment, etc) Act 2004, No.1 LFN
35 Ibid, s 6.
36 Ibid, s 7.
37 Ibid, s 20 – 26.

Code of Conduct Bureau and Tribunal Act, 2004 (as amended)

The Code of Conduct Bureau and Tribunal Act, 2004 is a significant piece of legislation in Nigeria's anti-corruption framework.[38] This Act establishes the Code of Conduct Bureau (CCB) and the Code of Conduct Tribunal (CCT), which are responsible for ensuring that public officers adhere to ethical standards and transparency in the discharge of their duties.

The Act requires all public officers to declare their assets and liabilities upon assuming office, after every four years, and at the end of their term of office.[39] This provision is aimed at preventing corruption by ensuring that public officials do not acquire wealth illicitly while in office. The Act outlines a Code of Conduct for public officers, which includes provisions against conflict of interest, abuse of power, acceptance of bribes, and improper enrichment. It also prohibits public officers from maintaining foreign accounts, except as permitted by law.

Public Procurement Act (2007)

The Public Procurement Act, 2007 was enacted to regulate the procurement process in public institutions, ensuring transparency, accountability, and fairness in the awarding of government contracts.[40] The Act established the Bureau of Public Procurement (BPP), which oversees the implementation of procurement policies and ensures compliance with established standards.[41]

This Act is critical in preventing corruption in the public sector, particularly in the awarding of contracts, which has historically been a significant source of corruption in Nigeria. However, challenges such as the lack of political will, non-compliance by government agencies, and inadequate enforcement mechanisms continue to undermine the effectiveness of this law.

Whistleblower Protection Policy (2016)

The Whistleblower Protection Policy, 2016 was introduced by the Nigerian government as part of its broader anti-corruption strategy.[42] This policy encourages individuals to report cases of corruption by offering protection and financial incentives to whistleblowers. The policy aims to enhance transparency and accountability by providing a safe and secure means for citizens to expose corrupt practices.

While the policy has led to the exposure of several high-profile corruption cases and the recovery of substantial sums of money, its effectiveness

38 Code of Conduct Bureau and Tribunal Act 2004 (as amended) Cap C15 LFN 2004.
39 Ibid, ss 3 & 23.
40 Public Procurement Act, 2007 No.44 LFN.
41 Ibid. s 3.
42 Federal Government of Nigeria, Whistleblower Protection Policy 2016.

is hindered by fears of retaliation, inadequate protection mechanisms, and the slow pace of legal proceedings against those implicated.

Key Institutions

Independent Corrupt Practices and Other Related Offences Commission (ICPC)

The ICPC was established in 2000 by the Corrupt Practices and Other Related Offences Act.[43] The ICPC's mandate is broader than that of the EFCC, focusing not only on the investigation and prosecution of corrupt practices but also on educating the public and preventing corruption through systemic reforms. The ICPC is tasked with receiving and investigating reports of corruption, prosecuting offenders, and recommending measures to prevent corruption in public institutions.[44]
The ICPC works to identify and eliminate systemic corruption by examining the practices and procedures in public institutions that facilitate corrupt behavior. While the ICPC has made significant strides in promoting transparency and accountability, its impact has been limited by challenges similar to those faced by the EFCC, including political interference, limited funding, and the complexity of prosecuting corruption cases in a legal system burdened with delays and inefficiencies.

Economic and Financial Crimes Commission (EFCC)

The EFCC is Nigeria's foremost anti-corruption agency, established by the Economic and Financial Crimes Commission (Establishment) Act in 2002.[45] The EFCC is responsible for investigating and prosecuting financial crimes, including money laundering, fraud, and embezzlement of public funds. The EFCC has the authority to arrest, investigate, and prosecute individuals involved in financial crimes.[46] Its establishment was a response to the growing problem of economic and financial crimes, which were increasingly undermining Nigeria's economic stability and international reputation.

The EFCC has been instrumental in securing high-profile convictions, recovering stolen assets, and deterring financial crimes through its activities. However, its effectiveness has been criticized due to issues such as selective prosecution, political influence, and a lack of adequate resources and independence. Critics argue that the EFCC is

43 Independent Corrupt Practices and Other Related Offences Commission < https://icpc.gov.ng> accessed 12 August 2024.
44 Ibid.
45 Economic and Financial Crimes Commission <https://www.efcc.gov.ng/efcc/> accessed 12 August 2024.
46 Ibid, n 34.

sometimes used as a tool for political vendettas, which undermines its credibility and effectiveness.

Code of Conduct Bureau (CCB) and Code of Conduct Tribunal

The Code of Conduct Bureau is another critical institution in Nigeria's anti-corruption architecture.[47] Established under the Code of Conduct Bureau and Tribunal Act, the CCB is tasked with ensuring that public officials adhere to the ethical standards required by law. The CCB is tasked with receiving and verifying asset declarations, investigating complaints about breaches of the Code of Conduct, and referring cases to the Code of Conduct Tribunal (CCT) for prosecution. The CCT is the judicial body that adjudicates cases of breaches of the Code of Conduct.[48] It has the power to impose sanctions, including removal from office, disqualification from holding public office, and seizure of assets acquired in violation of the Code.

The CCB operates in conjunction with the Code of Conduct Tribunal (CCT), which adjudicates cases brought before it by the Bureau. While the CCB and CCT plays a crucial role in promoting integrity among public servants, its effectiveness is often hampered by inadequate resources, a lack of political will to enforce compliance, and challenges in verifying asset declarations.

Bureau of Public Procurement (BPP)

The Bureau of Public Procurement (BPP) is a crucial institution in Nigeria's fight against corruption, particularly in the public sector procurement process.[49] Established under the Public Procurement Act of 2007, the BPP is responsible for regulating, monitoring, and overseeing public procurement in federal ministries, departments, and agencies (MDAs) to ensure that government contracts are awarded fairly, transparently, and in accordance with the law. The BPP sets guidelines and procedures for the procurement of goods, services, and works by federal MDAs. It ensures that these processes adhere to principles of transparency, competitiveness, and value for money.

The BPP monitors the implementation of procurement laws and procedures, ensuring that public contracts are executed in line with the stipulated standards. It also reviews procurement processes to prevent corruption and mismanagement of public funds. The BPP provides training and capacity-building programs for procurement officers in federal MDAs to enhance their understanding and application of

47 Code of Conduct Bureau <https://ccb.gov.ng/?page_id=208> accessed 12 August 2024.

48 Ibid <https://ccb.gov.ng/?page_id=358> accessed 12 August 2024.

49 Bureau of Public Procurement <https://www.bpp.gov.ng> accessed 12 August 2024.

procurement laws and practices. The BPP offers a mechanism for addressing complaints and resolving disputes arising from the procurement process.[50] This helps to reduce corruption by providing an avenue for stakeholders to challenge unfair practices.

Court Cases on Corruption in Nigeria

The courts in Nigeria have delivered plethora of judgements bordering on corruption including the where defendants were indicted or acquitted. *Federal Republic of Nigeria v. Joshua Dariye [2018] 3 NWLR (Pt. 1600)*

In, Federal Republic of Nigeria v. Joshua Dariye,[51]Joshua Dariye, who was a former governor of Plateau State, was charged with money laundering and diversion of public funds amounting to billions of naira during his tenure as governor from 1999 to 2007. The Economic and Financial Crimes Commission (EFCC) investigated him for allegedly using his office to siphon state funds into personal accounts.

The High Court found Dariye guilty of 15 out of the 23 counts against him and sentenced him to 14 years in prison. The court emphasised that public officials must be held accountable for their actions and that corruption undermines democratic governance.

Federal Republic of Nigeria v. Orji Uzor Kalu [2019] LPELR-46978(CA)

In Federal Republic of Nigeria v. Orji Uzor Kalu,[52] Orji Uzor Kalu, who was a former governor of Abia State, was accused of embezzling over N7.6 billion from the state's treasury while he was in office between 1999 and 2007. The EFCC charged him with fraud and money laundering.

The Federal High Court convicted Kalu and sentenced him to 12 years imprisonment. However, Kalu appealed the decision, leading to a complex legal battle that raised questions about due process and judicial fairness in corruption cases.

Federal Republic of Nigeria v. Abubakar Atiku [2020] LPELR-49582(CA)

The case of *Federal Republic of Nigeria v. Abubakar Atiku,*[53] involved allegations against Abubakar Atiku, a former Vice President of Nigeria, regarding his involvement in corrupt practices during his time in office. He was accused of receiving kickbacks from contracts awarded by the government.

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50 Ibid.
51 [2018) 3 NWLR (Pt. 1600) 1.
52 [2019] LPELR-46978(CA).
53 [2020] LPELR-49582(CA).

The court dismissed the charges due to insufficient evidence presented by the prosecution. This case highlighted the challenges faced by law enforcement agencies in proving corruption-related offenses beyond reasonable doubt.

Federal Republic of Nigeria v. Ibori [2012] UKSC 15

In Federal Republic of Nigeria v. Ibori,[54] James Ibori, a former governor of Delta State, was implicated in various corruption schemes involving money laundering and fraud totalling over $250 million during his tenure from 1999 to 2007.

Although tried in the UK after fleeing Nigeria, Ibori was convicted for money laundering and conspiracy to defraud Nigerian authorities. He received a sentence of 13 years imprisonment, which underscored international cooperation in combating corruption.

EFCC v. Ayo Fayose [2020] LPELR-49428(CA)

In EFCC v. Ayo Fayose, Ayo Fayose, former governor of Ekiti State, faced charges related to receiving illicit funds from the Office of the National Security Adviser under Sambo Dasuki for his gubernatorial campaign in 2014.[55] The court found Fayose guilty on multiple counts related to fraud and money laundering and sentenced him to 11 years imprisonment while also ordering restitution for misappropriated funds.

Despite the existence of these institutions and legal frameworks, the enforcement of anti-corruption laws in Nigeria remains a significant challenge. Corruption is deeply entrenched in the political and economic systems, with powerful individuals and entities often able to evade accountability through political influence, legal loopholes, and weak institutional capacity. The judiciary, which plays a crucial role in the enforcement of anti-corruption laws, is itself often compromised by corruption, leading to delays and inconsistencies in the prosecution of corruption cases.

The Impact of Corruption on Human Rights

The intersection between corruption and human rights is evident in the way corruption distorts the distribution of public resources, compromises the rule of law, and hinders access to justice, thus violating a wide range of human rights. It presents a profound challenge to governance, justice, and equality in societies worldwide. Corruption, in its various forms, directly undermines the protection and realisation of human rights by skewing the distribution of resources, compromising the integrity of institutions, and fostering an environment where abuse of power

54 [2012] UKSC 15.

55 [2020] LPELR-49428(CA).

becomes normalised. As public officials and institutions prioritise private gain over public interest, essential services such as healthcare, education, and social welfare are often neglected, disproportionately affecting marginalised communities. This pervasive issue not only deepens social inequalities but also erodes trust in government, perpetuates cycles of poverty and injustice, and weakens the very foundations of a fair and just society. Understanding the impact of corruption on human rights is crucial for developing effective strategies to combat it and promote a governance system that upholds the dignity, rights, and well-being of all individuals.

Direct Impact on Civil and Political Rights

***Right to a Fair Trial*:** Judicial corruption undermines the independence and impartiality of the judiciary, leading to biased rulings, wrongful convictions, and the denial of justice. In countries with high levels of judicial corruption, the wealthy and powerful often escape accountability, while the poor and marginalized suffer the consequences. This erodes public trust in the justice system and weakens the rule of law. The Nigerian Constitution guarantees the right to fair hearing in section 36, but in practice, corruption leads to the manipulation of judicial outcomes, where justice is often only available to those who can afford to bribe officials.[56] This corruption within the judiciary creates a system where human rights violations go unpunished, and victims are denied justice.

***Freedom of Expression and Access to Information*:** Corruption can stifle freedom of expression and access to information as provided for in section 39 of the Nigerian Constitution by suppressing media freedom, censoring critical voices, and restricting access to information about government activities.[57] This creates an environment of secrecy and impunity, where corrupt practices can thrive without scrutiny or accountability.

***Political Participation and Electoral Integrity*:** Corruption in the electoral process, such as vote-buying, electoral fraud, and the manipulation of voter lists, undermines the legitimacy of elections and the right of citizens to participate in the political process. This weakens democratic institutions and erodes public confidence in the electoral system.

56 n 30 and s 36.
57 n 30, s 39.

Indirect Impact on Economic, Social, and Cultural Rights

***Right to Education*:** Corruption in the education sector can manifest in various ways, including the embezzlement of funds intended for school infrastructure, bribery for grades, and the misallocation of resources. This undermines the quality of education and exacerbates inequalities, as the most vulnerable groups are often denied access to adequate educational opportunities. Corruption can also lead to the proliferation of "ghost schools," where funds are allocated to non-existent institutions, further depriving children of their right to education. This directly violates the right to education as provided for in section 18 of the Nigerian Constitution.[58] The mismanagement of public funds denies citizens their rights to these basic services, disproportionately affecting the most vulnerable populations.

***Right to Health*:** Corruption in the healthcare sector can lead to the diversion of funds, the procurement of substandard medicines and equipment, and the imposition of informal payments on patients. This results in inadequate healthcare services, particularly for the poor, and violates the right to health. Corruption can also contribute to the spread of diseases, as funds intended for public health campaigns and disease prevention programs are siphoned off for private gain. This directly violates the right to health as provided for in Article 16 of the African Charter on Human and Peoples' Rights, which Nigeria has domesticated.[59]

***Right to an Adequate Standard of Living*:** Corruption can impede access to basic services such as water, sanitation, and housing, which are essential for an adequate standard of living. When public funds are misappropriated or allocated based on corrupt practices, the delivery of these services is compromised, leading to the violation of economic and social rights. Corruption can also exacerbate poverty and inequality, as resources that should be used to support social welfare programs are diverted for private gain. The looting of public funds, as seen in cases such as the conviction of former state governors like James Ibori, directly reduces the resources available for social programs aimed at poverty alleviation. This deepens social disparities and restricts access to opportunities for economic advancement, particularly for those in lower-income groups, thus violating their economic and social rights as

58 n 30, s 18.
59 African Charter on Human and Peoples' Rights 1983, art 16.

enshrined in the Nigerian Constitution in section 17 and the African Charter.[60]

Corruption as an Obstacle to Good Governance

Weakening of Public Institutions: Corruption undermines the effectiveness and efficiency of public institutions by distorting decision-making processes and diverting resources from their intended purposes. When public officials engage in corrupt practices, the delivery of services becomes skewed, with resources allocated based on personal gain rather than public need. This weakens the capacity of public institutions to fulfill their mandates and erodes public trust in government. The Nigerian Constitution in section 14 emphasises the government's responsibility to ensure the welfare and security of its citizens.[61] However, widespread corruption, particularly during elections and within the legislative and executive branches, undermines democratic processes and the rule of law. When citizens perceive that leaders are more focused on personal enrichment than public service, it leads to political instability, disenchantment with democracy, and apathy towards civic engagement, all of which contribute to the deterioration of human rights protections.

Erosion of Accountability and Transparency: Corruption erodes accountability and transparency by creating a culture of secrecy and impunity. Public officials who engage in corrupt practices often seek to cover their tracks by manipulating records, obstructing investigations, and silencing whistleblowers. This undermines the mechanisms of oversight and accountability, allowing corruption to persist and proliferate. The lack of transparency in decision-making processes also makes it difficult for citizens to hold public officials accountable, further entrenching corrupt practices.

Distortion of Public Policies and Priorities: Corruption distorts public policies and priorities by influencing decision-making processes in favor of private interests rather than the public good. When public officials are bribed or coerced into making decisions that benefit a select few, the broader needs of society are neglected. This can result in the misallocation of resources, the implementation of ineffective or harmful policies, and the neglect of critical issues such as poverty alleviation, healthcare, and education. Corruption also undermines the credibility and legitimacy of public institutions, as citizens lose confidence in the ability of their government to act in their best interests.

60 n 30, s 17.
61 n 30, s 14.

Impediment to Economic Development: Corruption is a major impediment to economic development, as it increases the cost of doing business, discourages investment, and distorts market competition. When businesses are required to pay bribes to secure contracts or licenses, the cost of goods and services increases, and the quality of products may decrease. This undermines economic growth and development, particularly in developing countries where resources are already limited. Corruption also creates an uneven playing field, where businesses that engage in corrupt practices gain an unfair advantage over those that operate with integrity, further distorting market competition.

Obstruction of Human Rights Protections: Corruption in regulatory and oversight bodies in Nigeria obstructs the enforcement of laws designed to protect human rights. Agencies such as the Economic and Financial Crimes Commission (EFCC) and the Independent Corrupt Practices and Other Related Offenses Commission (ICPC) are often undermined by political interference and insufficient resources, which hampers their ability to effectively combat corruption. This obstruction allows human rights violations to persist, particularly in areas like labor rights, environmental protections, and anti-discrimination measures, which are supposed to be enforced under Nigerian law (e.g., the Labor Act, the Environmental Impact Assessment Act).

The NHRC and its role in Fighting Corruption

The National Human Rights Commission established an Anti-Corruption and Transparency Unit (ACTU) within the Commission. The ACTU is an initiative of the ICPC approved by the Federal Executive Council in 2001 to serve as an in-house mechanism for curbing corruption. ACTU is the ICPC engagement platform for the public sector including, Ministries, Departments and Agencies of government. The operations of ACTU are guided by the ICPC Act, 2000 and Standing Orders for the Operations of ACTUs in MDAs, 2023.

ACTU membership is made up of staff of the respective organisation selected from relevant professional skills and department within the organisation. The unit is mandated to conduct preliminary investigation into complaints received from staff and stakeholders bothering on offences under the ICPC Act, 2000. The report of the investigation is to be submitted to Management and a copy forwarded to the ICPC. The Unit is also tasked with protecting informants who brings a complain t to them.

The NHRC ACTU developed a Code of Conduct/Ethics to guide staff of the NHRC in the discharge of their responsibilities towards realising

the vision and mission of the Commission.[62] The Code of Conducts/Ethics in section 1 provides for transparency and accountability as well as the protection of whistleblowers.[63] It also provides prohibitions for staff as contained in section 2.[64] These prohibitions includes in paragraph I that a staff shall not demand and accept any gift of any kind as a condition for the performance of their duty.[65] Paragraph ii stipulates that a staff shall not accept to use their position or office to secure unwarranted privileges.[66] Section 4 also provides for sanctions and stipulates that any breach of the code constitutes serious misconduct and will attract disciplinary action in accordance with the Public Service Rules.[67]

Conclusion and Recommendations

Conclusion

Corruption is a pervasive and multifaceted problem that has far-reaching implications for human rights and good governance. It undermines the rule of law, erodes public trust, and impedes economic and social progress. The relationship between corruption, human rights, and good governance is complex and interconnected, as corruption not only directly violates human rights but also weakens the institutions and processes that are essential for the protection and realisation of these rights.

The impact of corruption on human rights is profound, affecting both civil and political rights as well as economic, social, and cultural rights. Corruption distorts public policies and priorities, weakens public institutions, and creates a culture of impunity, all of which contribute to the violation of human rights. Moreover, corruption is a major obstacle to good governance, as it undermines the principles of accountability, transparency, rule of law, and participation, which are essential for the effective functioning of democratic institutions.

Recommendations

Strengthening Legal and Institutional Frameworks: Governments should strengthen legal and institutional frameworks to combat corruption and protect human rights. This includes the adoption and enforcement of anti-corruption laws, the establishment of independent anti-corruption agencies, and the promotion of transparency and

62 National Human rights Commission Code of Conduct/Ethics for NHRC Staff.
63 Ibid.
64 Ibid.
65 Ibid.
66 Ibid.
67 Ibid.

accountability in public institutions. Governments should also ensure that anti-corruption measures are aligned with human rights principles and that they address the root causes of corruption, such as poverty, inequality, and weak governance structures.

Promoting Transparency and Accountability: Transparency and accountability are essential for preventing and combating corruption. Governments should promote transparency in decision-making processes, public procurement, and the allocation of resources. This includes the adoption of open government policies, the publication of government budgets and expenditures, and the establishment of mechanisms for citizen participation and oversight. Governments should also hold public officials accountable for their actions, including through the prosecution of corruption cases and the enforcement of anti-corruption laws.

Enhancing International Cooperation: Corruption is a global problem that requires international cooperation to address effectively. Governments should strengthen international cooperation in the fight against corruption, including through the implementation of international anti-corruption instruments such as the UNCAC. This includes cooperation in areas such as asset recovery, mutual legal assistance, and the exchange of information and best practices. Governments should also work together to address the transnational nature of corruption, including by targeting the illicit financial flows that facilitate corruption.[68]

Empowering Civil Society and the Media: Civil society and the media play a critical role in combating corruption and promoting good governance. Governments should create an enabling environment for civil society organisations and the media to operate freely and independently, including by protecting their rights to freedom of expression and access to information. Governments should also support the efforts of civil society organisations and the media to expose corruption and hold public officials accountable, including through the provision of legal protections for whistleblowers and journalists.

Building Public Awareness and Education: Public awareness and education are essential for preventing and combating corruption. Governments should invest in public awareness campaigns and

68 Organisation for Economic Co-operation and Development, '*The Role of International Cooperation in Tackling Corruption'* (OECD 2018) <https://www.oecd.org/corruption/the-role-of-international-cooperation-in-tackling-corruption.htm> accessed 19 August 2024.

education programs to raise awareness about the harmful effects of corruption and the importance of good governance and human rights. This includes integrating anti-corruption and human rights education into school curricula, promoting ethical behavior and integrity in public life, and encouraging citizens to participate in the fight against corruption.

Strengthening Judicial Independence and Integrity: The judiciary plays a crucial role in upholding the rule of law and protecting human rights. Governments should take steps to strengthen the independence and integrity of the judiciary, including by ensuring that judges are appointed based on merit, providing adequate resources and training for the judiciary, and protecting judges from political interference and corruption. Governments should also ensure that the judiciary is equipped to handle corruption cases effectively and impartially, including through the establishment of specialised anti-corruption courts and the provision of legal protections for judges who take a stand against corruption.

Fostering Inclusive and Participatory Governance: Inclusive and participatory governance is essential for promoting good governance and protecting human rights. Governments should take steps to ensure that all citizens, including marginalised and vulnerable groups, have the opportunity to participate in decision-making processes and hold public officials accountable. This includes promoting gender equality, protecting the rights of minorities and indigenous peoples, and ensuring that all citizens have access to information and the means to participate in governance. Governments should also work to build trust between public institutions and citizens, including through the promotion of dialogue, consultation, and collaboration between government and civil society.

Combating corruption is essential for the protection of human rights and the promotion of good governance. By strengthening legal and institutional frameworks, promoting transparency and accountability, enhancing international cooperation, empowering civil society and the media, building public awareness and education, strengthening judicial independence and integrity, and fostering inclusive and participatory governance, governments can take significant steps towards addressing the root causes of corruption and creating a more just and equitable society.

Chapter 15

BUSINESS AND HUMAN RIGHTS: THE ROLE OF CORPORATE SOCIAL RESPONSIBILITY

By

Pwadumdi John Okoh*

Introduction

The intersection of business and human rights has gained significant attention in recent years, particularly with the increasing acknowledgment of Corporate Social Responsibility (CSR) as a crucial mechanism for promoting human rights within corporate practices.

CSR has emerged as a critical component of business strategy in Nigeria, reflecting a growing recognition of the need for companies to engage in ethical practices that benefit both society and the environment[1]. This article will explore the role of Corporate Social Responsibility (CSR) in promoting human rights within the Nigerian context. It will define key concepts, delve into the multifaceted landscape of CSR in Nigeria, examining its legal[2] framework, implementation challenges, and the evolving relationship between business and human rights. It will conclude by making recommendations for enhancing the effectiveness of CSR initiatives in safeguarding human rights.

The relationship between business and human rights has become increasingly significant in today's global economy, particularly in developing countries like Nigeria. As businesses expand their operations across borders, their impact on human rights and local communities has come under scrutiny. This background provides context for understanding the role of Corporate Social Responsibility (CSR) in promoting human rights within this framework.

Businesses are not only economic entities but also social actors that can influence human rights outcomes. The adoption of the United

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1 O Nelson, 'Legal Status of Corporate Social Responsibility: From Philanthropy to Obligation' AJLHR 1 (2017) pg44 <https://journals.ezenwaohaetorc.org/index.php/AJLHR/article/download/514/477>

2 Mordi & others, 'Corporate Social Responsibility and the Legal Regulation in Nigeria' Economic Insights – Trends and Challenges Vol. LXIV No. 1/2012 <http://upg-bulletin-se.ro/old_site/archive/2012-1/1.%20Mordi_Opeyemi_Tonbara_Ojo.pdf>

Nations Guiding Principles on Business and Human Rights[3] (UNGPs) has established a global framework that emphasizes the responsibility of businesses to respect human rights. These principles assert that while states have the primary duty to protect human rights, businesses must also avoid infringing on those rights and address any adverse impacts they may cause or contribute to[4].

In Nigeria, where economic activities often intersect with social and environmental challenges, the importance of integrating human rights into business practices is particularly pronounced[5]. Companies operating in sectors such as oil and gas have faced allegations of human rights abuses, including environmental degradation and displacement of communities. Such issues highlight the need for businesses to adopt CSR practices that not only comply with legal standards but also promote ethical conduct and community welfare[6].

Corporate Social Responsibility serves as a vital mechanism for businesses to demonstrate their commitment to human rights[7]. It is worth noting that over the years in Nigeria, CSR initiatives has helped to bridge the gap between corporate operations and community needs, fostering trust and collaboration, the various CSR practices has led to improved social outcomes, such as enhanced education, healthcare, and infrastructure, thereby contributing to the overall development of the region where these businesses[8] are based.

Globally, CSR is increasingly being viewed as a strategic imperative in the global market and companies that prioritize human rights and social responsibility can enhance their reputation, attract investment, and gain a competitive edge[9]. In the context of Nigeria, where social and environmental[10] issues are prevalent, businesses that engage in meaningful CSR can mitigate risks and contribute to sustainable development goals as the integration of human rights considerations into

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3 A Carroll, 'Corporate Social Responsibility: Evolution of a Definitional Construct' (1999) 38(3) Business & Society 268, 269.

4 United Nations, 'Human Rights 75: Business and human rights' (2020) <https://libraryresources.unog.ch/c.php?g=714166&p=5167191> accessed on 4 June, 2024.

5 O Eze, 'African Concept of Human Rights', (eds) in A U Kalu and Y Osinbajo '*Perspectives on Human Right' 2013 ILJ.*

6 N Bernas, 'Business and Human Rights History, Law and Policy - Bridging the Accountability Gap' 2017 <https://www.routledge.com/Business-and-Human-Rights-History-Law-and-Policy---Bridging-the-Accountability-Gap/Bernaz/p/book/9781138683006> accessed 12 June 2024.

7 UNDP, https://www.undp.org/rolhr/business-and-human-rights

8 Danish Institute for Human Rights, 'Business and human rights', <https://www.humanrights.dk/business-human-rights> accessed on 27 July 2024.

9 Ibid.

10 World Commission on Environment and Development, 'Our Common Future' (1987) 41.

business practices is crucial for fostering sustainable development and social justice[11]. Corporate Social Responsibility plays a key role in this process by encouraging businesses to engage with local communities, respect human rights, and address the social impacts of their operations. As the global economy continues to evolve, the importance of business and human rights will only grow, making it imperative for companies to adopt responsible practices that align with international standards and local needs.

Despite the potential for CSR to drive sustainable development[12], Nigeria faces significant hurdles, including inadequate legal structures and the prevalence of greenwashing. By exploring successful case studies and best practices, this article aims to highlight the economic, social, and environmental benefits of CSR while also addressing critiques and limitations inherent in the current practices[13]. Ultimately, a comparison with international standards will provide insights into how Nigeria can enhance its CSR framework to better align with global expectations and improve corporate accountability[14].

Background and Context of Corporate Social Responsibility in Nigeria

CSR in Nigeria is shaped by a combination of local practices and international standards. The Nigerian government has historically focused on generating revenue from corporate activities, often at the expense of enforcing CSR compliance. This has led to a perception that CSR is more about corporate philanthropy than a legal obligation, resulting in a lack of effective regulatory frameworks to ensure corporate accountability[15]

Furthermore, the background and context of CSR in Nigeria reveals a complex interplay between historical influences, current practices, and the socio-economic landscape. While CSR has the potential to drive

11 United Nations, 'OHCHR and business and human rights' <https://www.ohchr.org/en/business-and-human-rights > accessed 27 July 2024.

12 A Helg, 'Corporate Social Responsibility from a Nigerian perspective' Master Thesis Spring Term 2007 < https://core.ac.uk/download/pdf/16312757.pdf>

13 G Halkos and others, 'Reviewing the status of corporate social responsibility (CSR) legal framework'(2021) Emerald Insight Business Journal <https://www.emerald.com/insight/content/doi/10.1108/meq-04-2021-0073/full/html> accessed on 17 July 2024.

14 N Amodu, 'Regulation and Enforcement of Corporate Social Responsibility in Corporate Nigeria' (2017) <https://eprints.soas.ac.uk/31952/1/Nojeem_Amodu_Regulation%20and%20Enforcement%20of%20Corporate%20Social%20%20Responsibility%20in%20Corporate%20Nigeria.doc>

15 Ibid.

positive change in Nigeria, its effectiveness is often hampered by a lack of regulatory frameworks and varying levels of commitment among businesses[16]. As Nigeria continues to evolve, the role of CSR in promoting sustainable development and addressing human rights issues will remain critical.

The formalization of CSR in Nigeria can be traced back to the influence of multinational corporations[17] (MNCs), particularly in the oil and gas sector. These companies introduced CSR practices as part of their operational strategies, primarily to mitigate the negative impacts of their activities on local communities and the environment. The historical roots of organized CSR in Nigeria are often linked to the need for MNCs to address issues such as environmental degradation, community displacement, and social unrest resulting from their operations[18]

Despite the early adoption of CSR by MNCs, the understanding and implementation of CSR among indigenous Nigerian companies have been less developed. Many local firms view CSR primarily as a philanthropic endeavor rather than a strategic business imperative. This perspective is influenced by the nature of Nigerian businesses, which are often family-owned and lack the same level of consumer and civil society pressure that exists in Western contexts.

Today, CSR in Nigeria encompasses a wide range of activities aimed at addressing social, economic, and environmental challenges. These initiatives often focus on areas such as education, healthcare, infrastructure development, and environmental sustainability. However, the effectiveness of CSR practices in Nigeria is often questioned, with critiques suggesting that many initiatives are superficial or merely serve as marketing tools rather than genuine efforts to promote social good. The voluntary nature of CSR in Nigeria means that there is no comprehensive regulatory framework mandating companies to engage in responsible practices. As a result, CSR initiatives can vary significantly between organizations, with some companies making substantial contributions to community development while others engage in minimal or tokenistic efforts.

However, the global shift towards sustainable development and ethical business practices has placed additional pressure on Nigerian

16 Sunday Eze and others, ‘Corporate Social Responsibility in Nigeria: A Critical Review of the Literature’ (2016) International Journal of Business and Management Review <https://www.researchgate.net/publication/352840237_Corporate_Social_Responsibility_in_Nigeria_A_Critical_Review_of_the_Literature >

17 Olubunmi Abayomi Oke and others, 'Corporate Social Responsibility Practices in the Extractive Industry in Nigeria: Shell Petroleum Development Company in Focus' (2016) 7(1) IJBM 55, 56-57.

18 Åsa Helg, ‘Corporate Social Responsibility from a Nigerian perspective’(2007) <https://core.ac.uk/download/pdf/16312757.pdf>

companies to adopt CSR as a core component of their operations. Companies that effectively integrate CSR into their business models can not only improve their public image but also foster stronger relationships with stakeholders, including customers, employees, and local communities[19]

Background and Context of Business and Human Rights (BHR) in Nigeria

Historically[20] before colonization, Nigeria consisted of various tribes and kingdoms that governed themselves separately without a central political union, human rights were recognized to some extent in these pre-colonial societies, but the concept was different from the modern understanding of universal human rights[21]

The advent of British colonialism in the late 19th century brought significant changes to Nigeria's socio-political landscape[22]. The colonial administration introduced laws and policies that often violated the rights of the native population, such as exploitation and discrimination[23]
However, the colonial period also saw the beginnings of organized human rights movements in Nigeria, led by nationalist figures like Nnamdi Azikiwe and Obafemi Awolowo[24]

After gaining independence in 1960, Nigeria incorporated human rights principles into its constitution and joined various international human rights treaties,[25] the 1979 constitution provided for fundamental human rights, including the right to life, dignity, personal liberty, and freedom of thought and religion[26]. However, human rights abuses continued to occur, particularly during periods of military rule in the 1980s and 1990s[27].

19S Udeh and others, 'Evolution of Corporate Social Responsibility in Nigeria' 2014 ESUT Journal of Accountancy vol 5 no1 <http://eprints.gouni.edu.ng/241/1/EVOLUTION%20OF%20CORPORATE%20SOCIAL%20RESPONSIBILITY%20IN%20NIGERIA.pdf>

20 A Chinyere, 'The Historical Rudiments of Human Rights' (2020) < https://legalpediaonline.com/the-historical-rudiments-of-human-rights/>

21 F Wettstein, 'The History of 'Business and Human Rights' and its Relationship with 'Corporate Social Responsibility' (2020) <https://www.researchgate.net/publication/341164048_The_History_of_%27Business_and_Human_Rights%27_and_its_Relationship_with_%27Corporate_Social_Responsibility%27>

22 Ibid.

23 Ibid at 54.

24 Ibid.

25 Constitution of the Federal Republic of Nigeria 1999, Sections 33-46.

26 Ibid.

27 D Jacob, 'Human Rights Protection in Nigeria: the Past, the Present and Goals for Role Actors for the Future' Vol.14, (2013) Journal of Law, Policy and Globalization <www.iiste.org https://core.ac.uk/download/pdf/234649649.pdf> at 15

The involvement of multinational corporations, particularly in the oil and gas sector, has been a significant factor in Nigeria's BHR landscape. Companies[28] like Shell faced allegations of complicity in human rights violations and environmental degradation in the Niger Delta region,[29]this led to increased scrutiny of corporate activities and the need for businesses to respect human rights and engage in responsible practices[30].

Nigeria has made efforts to strengthen its legal framework for BHR, including incorporating the UN Guiding Principles on Business and Human Rights[31] The Nigerian government has also encouraged businesses to adopt corporate social responsibility (CSR) practices to address social and environmental issues[32]. However, challenges remain in terms of enforcement, lack of comprehensive regulations, and varying levels of commitment among companies[33]

Conceptual Clarification of Terms

Business and Human Rights (BHR)

The term ‘business and human rights’ refers to the responsibility of businesses to respect human rights throughout their operations and supply chains. This concept is grounded in the United Nations Guiding Principles on Business and Human Rights (UNGPs), which outline the duty of states to protect human rights, the responsibility of businesses to avoid infringing on those rights and for the provision of speedy access to remedy where there is any breach or violation.

In simple terms “business and human rights" refers to the responsibilities of government and businesses to protect, respect, and fulfill human rights in their operations and value chains. This includes upholding civil, political, economic, social, and cultural rights, as well as addressing the adverse human rights impacts of their activities.

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28 OECD, 'OECD Guidelines for Multinational Enterprises' (2011); United Nations Global Compact, *'The Ten Principles of the UN Global Compact'* (United Nations).

29 Ibid.

30 A Adewumi, 'Corporate Social Responsibility in Nigeria: Western Mimicry or Indigenous Influences?' (2012) 3(1) Journal of African Business 9 15-17.

31 United Nations Office of the High Commissioner for Human Rights, 'Guiding Principles on Business and Human Rights' (2011)

32 N Bernaz, ‘Business and Human Rights History, Law and Policy - Bridging the Accountability Gaph’ (2017) <https://www.routledge.com/Business-and-Human-Rights-History-Law-and-Policy---Bridging-the-Accountability-Gap/Bernaz/p/book/9781138683006>

33 O Odjighoro,‘The Legal Framework for Business and Human Rights in Nigeria’ <https://unglobalcompactng.org/the-legal-framework-for-business-and-human-rights-in-nigeria> accessed 20 July 2024.

Corporate Social Responsibility (CSR)

Corporate Social Responsibility is a self-regulating business model whereby companies integrate social and environmental concerns into their operations and interactions with stakeholders. CSR encompasses various activities, including community engagement, environmental sustainability, and ethical labor practices. Corporate social responsibility. It is seen as the voluntary actions taken by companies to operate in an economically, socially, and environmentally sustainable manner[34]. CSR encompasses a range of initiatives, including ethical labor practices, environmental protection, community investment[35], and stakeholder engagement.

Legal Framework

The legal frameworks governing BHR and CSR in Nigeria are multifaceted, combining constitutional provisions, international treaties, sector-specific regulations, and voluntary initiatives[36]. While the foundation for protecting human rights and promoting responsible business practices exists, ongoing efforts are needed to strengthen enforcement mechanisms and ensure that businesses adhere to these frameworks effectively.

Most of the frameworks for these initiatives in Nigeria are primarily based on voluntary guidelines rather than binding legislations. Various codes of corporate governance encourage accountability and transparency but often lack enforceable provisions, leading to challenges in compliance and enforcement. However beyond legally binding instruments, various soft law frameworks, such as the OECD Guidelines for Multinational Enterprises and the UN Global Compact, provide voluntary guidelines for businesses to uphold human rights and sustainable development principles[37].

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34 A Carroll, 'Corporate Social Responsibility: Evolution of a Definitional Construct' (1999) 38(3) Business & Society 268, 269.

35 Nigerian Investment Promotion Commission Act 1995, s 26.

36 T Godson, ‘An Appraisal of the Legal and Institutional Frameworks Regulating Corporate Social Responsibility in the Petroleum Industry in Nigeria’ (2023) AELN Journal of Environment & Natural Resources Law <https://www.environmentallawyersng.org/wp-content/uploads/2023/11/A17-Tanam-Nwiko-Godson.pdf#:~:text=This%20thesis%20found%20that%20the%20Petroleum%20Industry,for%20the%20development%20of%20their%20host%20communities.&text=include%20gas%20flaring%2C%20oil%20spills%2C%20environmental%20pollution%2C%20negative%20social%20impacts%2C%20conflict%20and%20violence.> accessed 24 July, 2024.

37 OECD, 'OECD Guidelines for Multinational Enterprises' (OECD 2011); United Nations Global Compact, 'The Ten Principles of the UN Global Compact' (United Nations).

This article will discuss briefly some of the legal frameworks governing BHR and CSR in Nigeria Below is an overview of these frameworks.

Nigerian Constitution (National Frameworks)

The Constitution of the Federal Republic of Nigeria (1999) is the supreme law of the land and provides a foundation for human rights protection. Chapter IV outlines fundamental human rights, including the right to life, dignity, personal liberty, and freedom from discrimination. Businesses are expected to comply with these rights in their operations.[38].

Nigerian Investment Promotion Council

This Act aims to promote and facilitate investments in Nigeria, encouraging businesses to engage in CSR as part of their operational strategies. It recognizes the importance of responsible business practices in attracting foreign investment. The Nigerian Investments Promotion Commission Act[39] also requires foreign investors to comply with Nigerian laws and regulations, including those related to human rights and environmental protection.

Companies and Allied Matters Act (CAMA) 2020

This legislation encourages companies to adopt CSR practices by mandating transparency and accountability in corporate governance. It requires companies to disclose their CSR activities and impacts, fostering a culture of responsibility. It also holds company's accountable for any human rights violations during their operations.

National Action Plan (NAP) BHR

This is a government policy that aims to provide a framework for the implementation of the UN Guiding Principles on Business and Human Rights in Nigeria[40]The NAP outlines specific action points, responsible parties, and timelines for the implementation of these pillars, with the aim of promoting responsible business conduct and protecting human rights in Nigeria.

Voluntary CSR Initiatives

While there is no comprehensive legal mandate for CSR in Nigeria, many companies voluntarily adopt CSR practices to enhance their reputation and comply with global standards. The UN Global Compact's Ten Principles, which include human rights, labor, environment, and anti-

38 Section 33-46. 1999 Constitution of the Federal Republic of Nigeria.

39 Nigerian Investment Promotion Commission Act 1995, s 26.

40 Federal Government of Nigeria, 'National Action Plan on Business and Human Rights' (2023).

corruption, serve as a guideline for businesses seeking to implement effective CSR strategies.

Public and Private Sector Collaboration

The Nigerian government collaborates with the private sector to promote CSR initiatives that address social and environmental challenges. This partnership is crucial for ensuring that CSR efforts align with national development goals and human rights standards

International Treaties

Nigeria is a signatory to several international human rights treaties, such as the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). These treaties obligate the Nigerian government to protect human rights, which extends to the activities of businesses operating within its jurisdiction

UN Guiding Principles on Business and Human Rights (UNGPs)

The UNGPs provide a global framework that outlines the responsibilities of businesses to respect human rights. They emphasize that businesses should avoid causing or contributing to human rights abuses and should address any adverse impacts they may have on human rights

Sector-Specific Regulation

Certain sectors, particularly oil and gas, have specific regulations aimed at mitigating human rights abuses. For example, the Environmental Impact Assessment (EIA) Act requires companies to assess the social and environmental impacts of their projects, ensuring that they do not infringe on the rights of local communities

Corporate Governance Codes

Various codes of corporate governance in Nigeria encourage companies to adopt responsible business practices. These codes promote transparency, accountability, and ethical conduct, which are essential for respecting human rights in business operations.

Corporate Social Responsibility in Business and Human Rights

This section will delve into the role of Corporate Social Responsibility in Business and Human Rights, models of CSRs and its limitations and further proffer some recommendations.

Corporate Social Responsibility (CSR) has emerged as a critical framework for businesses particularly in the context of Business and Human Rights (BHR). The increasing scrutiny of corporate practices,

especially in sectors like oil and gas, has highlighted the need for companies to align their operations with human rights standards[41]

The historical backdrop as discussed above[42] of CSR in Nigeria is shaped by the country's colonial past and the subsequent emergence of multinational corporations (MNCs) in the post-independence era.[43] The oil and gas sector, dominated by companies like Shell and Chevron, has been at the forefront of CSR discussions, particularly due to allegations of human rights abuses and environmental degradation in the Niger Delta region. These companies have faced significant pressure from local communities and international organizations to adopt more responsible practices that respect human rights and contribute to sustainable development[44] However, the effectiveness of CSR in Nigeria is often compromised by greenwashing and tokenism, where companies prioritize marketing over meaningful engagement with environmental and social issues. This concept will be discussed briefly subsequently in this article.

Models of Corporate Social Responsibility (CSR)

There are several models of CSR however this article shall itself to the models adopted by businesses in Nigeria, enumerating its distinct features and approaches.

Philanthropic Model

This is one of the most common CSR models in Nigeria, where companies engage in charitable donations, sponsorships, and other forms of philanthropic activities.[45] This model is often used to build goodwill and improve the company's public image, rather than addressing the core social and environmental impacts of its operations[46].

Community Development Model

Companies invest in the development of local communities where they operate, such as by building infrastructure, providing healthcare, and

41 E Oyatoye, 'Corporate Social Responsibility: Are Firms in Nigeria Actually Giving Back?' (University of Lagos, 2020).

42 Ibid 35

43 M Chima and others, 'Corporate Social Responsibility and the Legal Regulation in Nigeria' (2012) 64(1) *UPG Bulletin

44 O Adeyi, 'Corporate Social Responsibility in Nigeria: Legal Framework and Nature of Obligation Owed by Companies to Undertake' (2018) *International Journal of Advanced Research and Publications

45 Onyeka Osuji, 'Corporate Social Responsibility and Law in Africa: Perspectives from Nigeria' in Onyeka Osuji (ed), *Corporate Social Responsibility in Developing and Emerging Markets: Institutions and Stakeholders Perspective* (Cambridge University Press 2020) 25-44.

46 Ibid.

supporting education initiatives in this model[47].This model is often seen as a way for companies to maintain a social license to operate and address local stakeholder concerns.

Environmental Management Model

This model is operated by some companies in Nigeria who have adopted this model that focuses on environmental management and sustainability, such as through initiatives to reduce waste, conserve natural resources, and mitigate the environmental impact of their operation,[48] this model is often driven by regulatory requirements or stakeholder pressure.[49]

Stakeholder Engagement Model

The emphasizes in this model is the importance of engaging with a wide range of stakeholders, including employees, customers, suppliers, and local communities, to identify and address their social and environmental concerns[50].This approach is often seen as more strategic and aligned with the principles of business and human rights.[51]

Integrated CSR Model

Consequently, there are a few leading companies in Nigeria who have adopted a more comprehensive and integrated approach to CSR, where social and environmental considerations are embedded into the core business strategy and decision-making processes[52].This model is often associated with a more proactive and holistic approach to addressing the company's impacts on society and the environment[53].

It is important to note that these models are not mutually exclusive, and many companies in Nigeria have employed a combination of these approaches depending on their specific context and strategic priorities.[54] The various models of CSR play a critical role in providing valuable frameworks for businesses operating in Nigeria to engage with human rights issues effectively. Adopting these models, with an end goal of respecting human rights, companies can enhance their accountability,

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47 Ibid.
48 Ibid.
49 Ibid.
50 Ibid.
51 Ibid.
52 S Fadun, 'Corporate Social Responsibility (CSR) Practices and Stakeholders Expectations: The Nigerian Perspectives' (2014) *Research in Business and Management* https://www.macrothink.org/journal/index.php/rbm/article/view/5500 accessed 12 June 2024.
53 Ibid.
54 Ibid.

promote community engagement, and contribute to sustainable development. However, addressing the challenges associated with CSR implementation is crucial for ensuring that businesses genuinely respect human rights and contribute positively to the communities in which they operate[55].

Limitations of Corporate Social Responsibility in Business and Human Rights

Corporation Social Responsibility is barraged with a myriad of challenges and limitations,[56]the voluntary nature of CSR in Nigeria means that many companies engage in superficial initiatives without genuine commitment to human rights. Strengthening regulatory frameworks is essential to hold businesses accountable for their actions. Some of the initiatives are not need or context specific as they are based on Western models that do not resonate with local cultural values[57]. Companies must therefore ensure that their CSR strategies are culturally relevant and address the unique challenges faced by the communities that receive the impact of their operations

Another critical issue of some of the challenge which will be discussed briefly in this article is the challenge of the concept called Greenwashing or Tokenism. The risk of greenwashing, where companies exaggerate their CSR efforts, has undermined genuine initiatives. Transparency and accountability are crucial to combat this issue and ensure that CSR practices lead to meaningful change.

Greenwashing and Tokenism

Critics[58] argue that many CSR efforts in Nigeria are superficial, often referred to as "greenwashing,"[59] where companies engage in CSR

55 M Angela and others, 'Recent Trends in Corporate Social Responsibilities in Nigeria-A Case Study of Major Oil Firms in the Niger Delta Region' (2021) *Journal of Cleaner Production* <https://www.sciencedirect.com/science/article/pii/S2468227621002325 accessed 12 June 2024.

55 Ibid.

56 S Fadun, 'Corporate Social Responsibility (CSR) Practices and Stakeholders Expectations: The Nigerian Perspectives' (2014) *Research in Business and Management*

57 Ibid.

58 M Chima and others, 'Corporate Social Responsibility and the Legal' Vol. LXIV No. 1/2012 1 - 8 Economic Insights – Trends and Challenges Regulation in Nigeria' <http://upg-bulletin-se.ro/old_site/archive/2012-1/1.%20Mordi_Opeyemi_Tonbara_Ojo.pdf> accessed 27 July 2024.

59 E Oyatoye, 'Corporate Social Responsibility: Are Firms in Nigeria Actually Giving Back?' (University of Lagos)

activities primarily for public relations rather than genuine commitment to social responsibility. This undermines the potential impact of CSR initiatives and leads to skepticism among stakeholders[60]

Greenwashing can be defined as the act of conveying a false impression or misleading information about how a company's products are environmentally sound. It involves making unsubstantiated claims to deceive consumers into believing that a company's products have a greater positive environmental impact than they actually do[61] This practice not only undermines consumer trust but also detracts from the genuine efforts of companies that are committed to sustainable practices.

The relationship between greenwashing and human rights in Nigeria is particularly concerning, where many communities are adversely affected by corporate activities. For instance, oil companies operating in the Niger Delta have been accused of environmental destruction, which has led to the displacement of communities and violations of their rights to a healthy environment and livelihood[62]. When companies engage in greenwashing, they divert attention from these abuses, allowing them to continue without accountability.

It has been researched that major oil companies in Nigeria have often been criticized for their environmental practices. While they may promote CSR initiatives aimed at community development, these efforts can be undermined by ongoing pollution and land degradation[63]. For example, Shell has faced significant backlash for its environmental impact in the Niger Delta, where oil spills have devastated local ecosystems and livelihoods. Greenwashing efforts that highlight superficial CSR initiatives can mask these serious violations, preventing meaningful change and accountability[64] Greenwashing has over the years misled consumers and communities into believing that they are supporting socially responsible companies[65]. This not only affects their choices but also diminishes the market for genuinely sustainable products and practices. When companies prioritize marketing narratives

<https://api-ir.unilag.edu.ng/server/api/core/bitstreams/c7610e77-1661-46ae-9352-b33cbee09ea9/content accessed 27 July 2024.

60 ibid

61 T Clifton, 'Greenwashing: The Deceptive Business of Environmental Marketing' (2021) 13(1) Journal of Applied Business and Economics 50-60.

62 S Dikwa, 'Expert Urges Nigerian Companies to Avoid Greenwashing in Sustainability Reporting' (Nairametrics, 20 May 2024) <https://nairametrics.com/2024/05/20/expert-urges-nigerian-companies-to-avoid-greenwashing-in-sustainability-reporting/> accessed 27 July 2024.

63 Ibid

64 Ibid

65 Ibid

over substantive action, they contribute to a culture of impunity regarding human rights abuses.[66]

Conclusion

It is not in contest that Corporate Social Responsibility had played, is playing and will continue to play a crucial role in the context of Business and Human Rights and in integrating human rights considerations into their operations, businesses has contributed to sustainable development and improved the quality of lives for local communities. However, this requires a concerted effort from all stakeholders to create a robust framework that promotes accountability and transparency in CSR practices. As Nigeria continues to evolve, the importance of CSR in promoting human rights will remain critical, necessitating ongoing engagement and commitment from businesses and the government alike.

Corporate Social Responsibility (CSR) in Nigeria also represents a critical intersection of legal obligations and ethical imperatives. As businesses navigate the complexities of local and global expectations, CSR initiatives can significantly contribute to social and environmental welfare. However, the effectiveness of these initiatives can be hindered by insufficient regulatory frameworks, particularly under the Companies and Allied Matters Act (CAMA) 2020, which lacks enforceable CSR mandates. Therefore, for CSR to genuinely transform communities and foster sustainable development, companies must prioritize ethical practices, stakeholder engagement, and transparency, ensuring that their contributions extend beyond mere compliance to meaningful societal impact hinged on the respect for the human rights of people.

Recommendations

This article will not be complete without proffering a few recommendation to enhance the effectiveness of CSR in promoting human rights in Nigeria:

a. The Nigerian government should enhance existing laws to hold companies accountable for human rights violations, ensuring that CSR practices are legally mandated. This includes ensuring the effective implementation of the United Nations Guiding Principles as captured in the National Action Plan on Business and Human Rights
b. Companies should be encouraged to disclose their CSR activities and their impacts on human rights, fostering trust and accountability among stakeholders in addition to ensuring that their CSR strategies are culturally relevant and address the unique challenges faced by

66 Ibid

either host communities or communities affected by their actions[67]It is also recommended that empowering civil society and local communities to scrutinize and challenge corporate claims can help identify and deter greenwashing practices[68]

c. Training programs should be implemented for businesses to understand the importance of human rights in their operations and the benefits of effective CSR.
Can lead to more effective CSR initiatives that address human rights concerns comprehensively.

e. Establishing independent monitoring bodies to evaluate the impact of CSR initiatives on human rights can help ensure accountability and continuous improvement.

67 Ibid

68 O Onyeka, 'Corporate Social Responsibility and Law in Africa: Perspectives from Nigeria' in Onyeka K Osuji (ed), *Corporate Social Responsibility in Developing and Emerging Markets: Institutions and Stakeholders Perspective* (Cambridge University Press 2020) 25-44.

Chapter 16

SELECTED RESOLVED COMPLAINTS BY THE COMMISSION UNDER DIFFERENT HUMAN RIGHTS THEMATIC AREAS IN 2024

C/2025/CPR/02/KB
The Commission received a complaint on 8th January 2025 from Y of Kabawa area, Gwadangwaji, Birnin Kebbi, Kebbi State, alleging that she and X had been involved in business transactions. The other party, who resides in Gumi village, Zamfara State, received money from her but failed to deliver the agreed goods. Y seeks the intervention of the Commission. The matter was resolved.

C/2025/CPR/03/KB
The Commission received a complaint on 10th January 2025 from XY alleging that they were given a short notice to vacate the houses they had occupied for over 35 years in Bunza Local Government, Kebbi State. Although they acknowledged that the property belonged to the government, they claimed the notice was too short and that they had renovated the houses themselves. XY seeks the intervention of the Commission. The matter was resolved.

C/2025/CPR/07/KB
The Commission received a complaint on 27th January 2025 from X regarding the traditional title in Gwabare village, Gwandu Local Government Area, Kebbi State. He alleged that his cousin was trying to prevent him from contesting the village headship, despite both the Local Government Chairman and Emirate Council stating they should proceed to election. X seeks the intervention of the Commission. The matter was resolved.

C/2025/CPR/08/KB
The Commission received a complaint from Ms. Y regarding admission initially granted to her by Waziri Umaru Federal Polytechnic, Birnin Kebbi, Kebbi State, which was later withdrawn. Ms. Y seeks the Commission's intervention. The matter was resolved.

C/2025/CPR/10/KB
The Commission received a complaint on 24th December 2024 from Y alleging that X and she had been into the business of supplying bags of rice, which was going well until they failed to pay her and introduced her

to supply mosquito net repellent, which she did. The total debt accumulated to a large sum. Y seeks the Commission's intervention to recover her funds. The matter was resolved.

C/2025/CPR/11/KB
The Commission received a complaint from Mr. X alleging that Mr. Y sold a piece of land allocated to him by his father, located in Badariya Area, Birnin Kebbi, Kebbi State. Mr. X seeks the Commission's intervention. The matter was resolved.

C/2025/CPR/14/KB
The Commission received a complaint from XY of Sabon Gari village, Augie Local Government Area, Kebbi State, alleging that X was detained in police custody on 24th February 2025 on the order of the Local Government Chairman over a viral video concerning the local government hospital. X seeks the intervention of the Commission. The matter was resolved.

C/2025/CPR/015/KB
The Commission received a complaint on 3rd March 2025 from X alleging that he and XY had a land dispute that resulted in a court case. However, he claimed he was not given fair hearing and the matter kept going back and forth. X seeks the intervention of the Commission. The matter was resolved.

C/2025/CPR/17/KB
The Commission received a complaint from X dated 19th March 2025 alleging that his son was taken by authorities in Lagos on an accusation of murder, even though he was in Kebbi State at the time. Upon returning to Lagos, he was arrested. Mr. X seeks the Commission's assistance. The matter was resolved.

C/2025/CPR/18/KB
The Commission received a complaint from XY dated 24th March 2025 alleging that X has been tarnishing the image of their cooperative society, despite XY having repaid a loan to him through court processes. XY seeks the Commission's intervention. The matter was resolved.

C/2025/CPR/20/KB
The Commission received a complaint from X dated 24th March 2025 alleging that an individual from Guro village, Shanga Local Government Area, Kebbi State, took over his farm produce, which amounted to nearly 40 bags. X seeks the intervention of the Commission. The matter was resolved.

C/2025/CPR/21/KB
The Commission received a complaint from Mr. X dated 25th March 2025, alleging that the respondent sold his car without his consent. Mr. X requests the Commission's intervention. The matter was resolved.

C/2025/CPR/25/KB
The Commission received a complaint on 7th April 2025 from Mr. Y of Sauwa Town, Argungu Local Government Area, Kebbi State. He alleged that he sold his elder brother's farmland without consent over 20 years ago. He refunded part of the money before his brother's death, but the heirs have refused to honor the settlement. The matter was resolved.

C/2025/CPR/26/KB
The Commission received a complaint on 2nd April 2025 from Mr. X, an employee of Shepherd Hill Security Ltd, alleging non-payment of his March 2025 salary. He is requesting the Commission's intervention. The matter was resolved.

C/2025/CPR/27/KB
The Commission received a complaint on 7th April 2025 from Mr. Y of Kasuwar Daji Area, Koko-Besse Local Government Area, Kebbi State. He alleged that the DPO of Koko detained him unlawfully over a water pump engine purchase. He seeks the Commission's intervention. The matter was resolved.

C/2025/CPR/30/KB
The Commission received a complaint on 8th April 2025 from Mr. Y of Yelwa Town, Yauri Local Government Area, Kebbi State. He alleged that the Police CID granted bail to suspects who robbed him. He requests the Commission's intervention. The matter was resolved.

C/2025/CPR/31/KB
The Commission received a complaint on 10th April 2025 from Mr. Y of Haliru Abdu Area, Birnin Kebbi, Kebbi State, alleging that after being bitten by a dog, the dog owners refused to take responsibility for his medical bills. He is requesting the Commission's intervention. The matter was resolved.

C/2025/CPR/36/KB
On 18th April 2025, Mr. Y submitted a complaint on behalf of his son, who allegedly died from police torture after arrest in Jega. A medical report was attached. The matter was resolved.

C/2025/CPR/38/KB
The Commission received a complaint on 24th April 2025 from Mr. Y of Kasuwar Daji Area, Koko-Besse, Kebbi State, alleging attempts by some individuals to hijack land allocated to him by the District Head. The matter was resolved.

C/2025/CPR/39/KB
The Commission received a complaint on 25th April 2025 from Mr. Y of Nasarawa Area, Kasati, Lolo Town, Bagudo Local Government Area, alleging unjust sharing of his farmland by a Sharia Court judge. The matter was resolved.

C/2025/CPR/41/KB
The Commission received a complaint from Y of Nasarawa 1 Area, Birnin-Kebbi, Kebbi State, regarding the alleged killing of his brother by Nigerian Army personnel after NSCDC involvement. Y is seeking justice. The matter was resolved.

C/2025/CPR/44/KB
The Commission received a complaint from Y of Kofar Bagari Area, Gwandu, Kebbi State, alleging unlawful cultivation of his land despite a court judgment in his favor. The matter was resolved.

C/2025/CPR/46/KB
The Commission received a complaint from Y of Mahuta Area, Bagudo, Kebbi State, alleging unlawful detention despite full debt payment. The matter was resolved.

C/2025/CPR/47/KB
The Commission received a complaint from Y of Bayan Abdullahi Fodiyo Area, Birnin-Kebbi, Kebbi State, alleging that his land was sold without his consent. He seeks the Commission’s intervention. The matter was resolved.

C/2025/CPR/48/KB
The Commission received a complaint from Y of Jandutse Area, Jega, Kebbi State, regarding unfair division of inherited farmland. The matter was resolved.

C/2025/CPR/50/KB
The Commission received a complaint from Y of Karaye Ward, Maiyama, Kebbi State, alleging he was shot by police who promised but failed to pay his medical bills. The matter was resolved.

C/2025/CPR/51/KB
The Commission received a complaint from Y of Tudun Wada Area, Birnin-Kebbi, Kebbi State, alleging that the respondent collected ₦62,000 to reinstate him at work but failed to fulfill the promise. The Commission intervened and the matter was resolved.

C/2025/CPR/57/KB
The Commission received a complaint from Y of Nasarawa Area, Birnin-Kebbi, Kebbi State, alleging that Abdulrazak fraudulently collected ₦5,600,000 for freezers but never delivered. Y seeks recovery. The Commission intervened the matter was resolved.

C/2025/CPR/58/KB
The Commission received a complaint from Y of RT Nigeria Air Force Area, Zuru, Kebbi State, alleging that a neighbor withheld his late mother's assets despite a court order. Y seeks the Commission's intervention. The matter was resolved.

C/2025/CPR/60/KB
The Commission received a complaint from XY of Karaye Area, Mayama, Kebbi State, alleging that the respondent used forged court documents to mislead the community. XY seeks legal action. The Complainant seeks the Commission's intervention and the matter was resolved.

Chapter 17

SUMMARY, CONCLUSION AND RECOMMENDATIONS

Summary

This work examined the interrelationship between fundamental rights, socio-economic rights, national security, and freedom of expression in Nigeria. It highlighted that the traditional restrictive interpretation of the right to life undermines the broader understanding that includes conditions necessary for human dignity and survival. Socio-economic rights, though often placed in the non-justiciable section of the Nigerian Constitution, remain critical to the attainment of an adequate standard of living and are indispensable to the realization of the right to life and dignity. A more expansive and liberal interpretation of these rights is therefore necessary to ensure that the Nigerian human rights framework responds to contemporary realities.

The analysis also underscored the importance of balancing human rights with national security in a context marked by insurgency, militancy, secessionist movements, and ethno-religious divisions. While national security is vital to sovereignty and stability, it must not be pursued in ways that undermine citizens' rights. The report called for accountability, inclusiveness, and soft approaches to conflict resolution, alongside judicial scrutiny of derogation clauses and stronger roles for civil society in monitoring government actions. This balance is essential for fostering national unity, peaceful coexistence, and sustainable development.

Furthermore, the work explored the centrality of freedom of expression and the press in democratic governance. Despite constitutional guarantees, Nigeria faces challenges such as restrictive legislation, harassment of journalists, concentration of media ownership, and threats posed by digital misinformation. Strengthening legal frameworks, ensuring journalist safety, and promoting media literacy are vital to safeguarding these rights. The study concludes that the full realization of human rights in Nigeria requires comprehensive legal reforms, equitable resource allocation, judicial activism, robust civil society engagement, and adherence to international human rights standards. Together, these measures will promote human dignity, protect socio-economic rights, balance security with liberty, and consolidate democracy in Nigeria.

Conclusion

The right to life, human dignity, socio-economic rights, national security, and freedom of expression are interconnected pillars of a democratic and just society. A restrictive approach to the right to life, which confines it to mere existence, undermines the broader understanding that encompasses the conditions necessary for a dignified human existence. Socio-economic rights—though often non-justiciable in Nigeria's Constitution—are essential for ensuring adequate living standards, protecting human dignity, and giving true meaning to fundamental rights. A liberal interpretation of the right to life, which addresses threats to life as well as actual loss of life, is therefore necessary for advancing a holistic human rights framework in Nigeria. Nigeria's legal framework provides a foundation for the protection of human rights, but challenges such as non-justiciability, economic inequality, corruption, insurgency, and ethno-religious conflicts hinder their full realization. National security, while paramount for sovereignty, unity, and stability, must not be pursued at the expense of citizens' fundamental freedoms. Striking a balance between security and human rights requires accountability, inclusiveness, and soft approaches that prioritize citizens' welfare in education, health, social security, and sustainable livelihoods. Judicial scrutiny of derogation clauses, coupled with strong oversight from civil society and human rights organizations, will ensure that security imperatives do not become a pretext for rights violations. The protection of freedom of expression and the press remains central to democratic governance and accountability, yet Nigeria continues to grapple with restrictive laws, harassment of journalists, and the challenges posed by digital platforms. Strengthening legal safeguards, repealing repressive laws, and ensuring protections for journalists and whistle-blowers are urgent steps. Promoting media literacy and combating misinformation will empower citizens to engage meaningfully in democratic processes. Ultimately, advancing human rights in Nigeria demands comprehensive legal and policy reforms, increased public awareness, equitable resource allocation, judicial activism, and stronger international cooperation. By pursuing these measures, Nigeria can create an environment where human dignity, socio-economic rights, national security, and fundamental freedoms are fully respected and protected.

Recommendations

1. Expansive Interpretation of the Right to Life

There is a need to adopt a more expansive and liberal interpretation of the right to life in Nigeria. Courts, policymakers, and human rights practitioners should move away from the narrow view that confines this right to mere physical existence, and instead embrace its broader components, which include access to healthcare, housing, education,

food security, and environmental protection. This approach will ensure that the right to life is meaningful and tied to the promotion of human dignity. Judicial activism and progressive interpretation are essential in making socio-economic rights more enforceable despite their placement in the non-justiciable provisions of the Constitution.

2. Legal and Constitutional Reforms
Comprehensive legal and constitutional reforms are necessary to guarantee the justiciability of socio-economic rights. The Nigerian Constitution should be amended to strengthen the enforceability of these rights, aligning with international human rights standards and obligations. In the absence of constitutional amendments, courts should utilize existing provisions such as the right to dignity, health, and life to indirectly enforce socio-economic rights. This should be complemented by policies that prioritize equitable resource allocation, reduce economic disparities, and address corruption, which remains a major obstacle to the realization of rights.

3. Human Rights–Based Approach to National Security
In the area of national security, government must prioritize approaches that respect human rights while safeguarding sovereignty and territorial integrity. Security agencies should be trained in rights-based approaches to law enforcement and conflict resolution. Instead of relying solely on force, soft approaches—such as dialogue, inclusion, economic empowerment, and accountability—should be deployed to address insurgency, militancy, and secessionist movements. Continuous judicial review of derogation clauses and active monitoring by civil society organizations are also critical in preventing the abuse of security measures as pretexts for human rights violations.

4. Strengthening Freedom of Expression and the Press
Freedom of expression and press freedom must be strengthened through legislative and institutional reforms. Repressive laws that stifle free speech should be amended or repealed, and new protections introduced for journalists, whistle-blowers, and media practitioners. To combat the threats posed by misinformation and hate speech, government and civil society should collaborate on promoting media literacy programs that empower citizens to critically engage with information. These steps will enhance transparency, accountability, and citizen participation in democratic processes.

5. Role of Judiciary and Civil Society
The judiciary and civil society must play proactive roles in advancing human rights. Courts should interpret rights expansively, borrowing from

international and comparative jurisprudence to give life to socio-economic and civil rights. Civil society organizations should continue advocacy, monitoring, and sensitization campaigns that hold government accountable to its human rights obligations. Partnerships with international organizations will also provide technical support, amplify advocacy, and ensure that Nigeria complies with global human rights standards.

6. Political Will and Inclusive Governance

Government must demonstrate political will by committing resources to rights protection, fighting corruption, and promoting inclusive governance. This includes investment in education, healthcare, housing, and social security to strengthen the social contract between the state and its citizens. Equally, a deliberate effort should be made to build national unity through equitable resource distribution and respect for diversity, thereby reducing the grievances that fuel insecurity and rights violations. By pursuing these recommendations collectively, Nigeria can achieve a balance between human rights and national security while ensuring the protection of dignity, freedom, and socio-economic rights for all its citizens.

7. Public Awareness and Human Rights Education

There should be deliberate investment in human rights education and public awareness campaigns to empower citizens with knowledge of their rights and responsibilities. Schools, universities, and civic institutions should integrate human rights education into their curricula, while civil society and the media should lead mass awareness efforts. An informed citizenry is better positioned to demand accountability, resist abuses, and actively participate in governance. Increased public awareness will also foster a culture of respect for human rights across all sectors of society.

8. International Cooperation and Compliance with Treaties

Nigeria should strengthen its commitment to international human rights instruments by ensuring effective domestication and implementation of treaties it has ratified. This requires harmonizing domestic laws with international standards and submitting timely reports to treaty-monitoring bodies. International cooperation should also extend to partnerships with global and regional organizations to share best practices, access technical assistance, and strengthen accountability mechanisms. Active engagement with the international human rights system will not only reinforce Nigeria’s obligations but also open additional channels for advocacy and redress.