

**SOCIAL JUSTICE AS HUMAN RIGHTS FOR SUSTAINABLE
DEVELOPMENT IN NIGERIA**

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Abstract

The paper stresses the complex interplay between law and life, that is there is the need for government to go beyond the theoretical formulation of laws and concretize the implementation of policies and legislations that will foster the recognition of the rights of the people that are less privileged, women, children and disabled in the society with special goal of contributing to the work for real equality and liberation. It is important note that equality under the law does not preclude the practice of discrimination. Equality of treatment also, does not in itself materialize into equal or just results either in individual cases or collectively. Often it is just the opposite that the goal of equality demands unequal treatment in order to give weak parties or groups the opportunity for equality and equal worth.

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Introduction

Right originally means something that is straight, not crooked, in opposition to wrong. Right is something which squares with a rule or norm. Human right is as old as man on the surface of the earth. The traditional society had great reverence for these rights and outlined a series of punishments for those who might violate them. The Bible, the Quran and other Holy Books are replete with proclamations expounding the importance of the human rights. The history of human right abuse in Nigeria is as old as Nigeria, herself (David, 2013). This is because the creation of the nation, Nigeria, was an abuse of the fundamental human right of the various entities that make up the Nigerian state. The approval of the various groups was not sought before they were merged as a nation (Ezeanya, 2010) consequently the move toward national integration (Izukanne, 2007) has been a problem. It was this sense of disunity and mistrust that led to the Nigerian civil war which resulted to various forms of human rights abuses including the loss of life, properties, rape among others. Some Nigerian scholars are of the view that the western countries use the tool of neo-colonialism to influence and decide the Nigerian leadership. If they are correct then it means, as they claimed, that the westerners are only interested in leaders that will protect their interest and not the interest of the Nigerian populace. It was for the same reason that the interests of the people were not sought before bringing them together as a nation.

The point is that the foundation of Nigerian was wrongly laid which made it difficult for the group to integrate and form a stable society. The difficulties encountered in such wrong foundation include the abuse of human

rights which has persisted till date (David, 2013). Nigeria on attainment of independence in 1960 entrenched the Fundamental Human Rights in its constitution. The main reason for entrenching this in the Nigerian constitution, according to Anozie (1998, p 197) was because of fears expressed by the minorities in 1957 that when the British government transfers power to Nigerians, the majority groups might invade their rights and liberties. They therefore asked for definite provisions to be written into the independence constitution to serve as bulwark against any invasion of their rights and liberties by the majority groups.

As a result of this request, a Commission was set up by the Secretary of States for the Colonies to look into the issues relating to the minorities. The Commission, recommended inclusion of the human rights provisions in the constitution observed "...they (human rights) are of great value in preventing steady deterioration in standards of freedom and the unobtrusive encroachment of a government on individuals rights" (The Minorities Commission Report, 1958). Ever since Nigeria's independence, Human Rights provisions have always occupied very important positions in the nation's Constitutions. The 1960 Independence Constitution; the 1963 Republican Constitution; The 1979 Constitution; The 1989 Constitution; and The 1999 Constitution.

In addition to the Human Rights provisions of the United Nation Charter; there is also the United International Bill of Human Rights which comprises of the followings:

1. The Universal Declaration of Human Rights: This prohibits slavery, inhuman treatment, arbitrary arrest, arbitrary interference with privacy, discrimination on grounds of race, color, sex, language, religion, political or other opinion, national or social origin, property or birth. The Declaration also proclaims the right to have and change belief and worship, freedom of opinion and expression, freedom of peaceful assembly and association, free elections and equal opportunities for access to public positions.
2. The International Covenant on Economic, Social and Cultural Rights: This focuses on the responsibility of Governments to promote better living conditions for their people. It further grants rights to work, right to fair wages, right to social security, right to adequate standard of living, freedom from hunger, right to health and education, and right to form trade unions.
3. The international Covenant on Civil and Political Rights: This proclaims that it is the responsibility of the government to protect its citizens and every other person within its territorial jurisdiction against cruel inhuman and degrading treatment. This Covenant recognizes the right to life, right to liberty, right to security, and right to privacy of person. Like the Universal Declaration of Human Rights discussed above, the Covenant prohibits slavery, arbitrary arrest or detention and

guarantees the right to fair trial, freedom of opinion and expression; the right of peaceful assembly and of emigration and freedom of association.

The Human Rights according to Anzie (1998: 195) can simply be classified into two, namely:

- a) Those rights referred to as natural rights which belong to a person for the simple reason that he was born a human being;
- b) Rights enjoyed by an individual by virtue of the fact that he is a member of a particular society.

A close examination of this classification reveals that there exist similarities between it and the ones discussed above. For example, the natural rights are taken care of in the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights while the rights accruing as a result of membership to a particular society are covered in the International Covenant on Civil and Political Rights. It is however noteworthy that there are no broad boundaries existing in- between these Covenants or Declaration, after all, they talk of individuals' inherent and inalienable rights and pursuits of happiness and good condition of living.

Ladan (1998) identified three forms of human rights, namely: the first generation rights such as the civil and political rights; the second generation rights such as the right to health, right to education, and right to social amenities and the third generation rights which include economic and cultural rights.

The Human Rights Provisions in the Constitution of the Federal Republic of Nigeria: We noted above that the Human Rights have always been given a prominent position in all the Constitutions of the Federal Republic of Nigeria namely, 1960 Independence Constitution, 1963 Republican Constitution, 1979 Constitution, 1989 Constitution, and 1999 Constitution. In the 1999 Constitution, the Human Rights are referred to as the 'Fundamental Rights'. The Fundamental Rights are contained in Chapter IV Section 33 to 43 and they are as follows:-

Right to Life: Every person has a right to life and one shall be deprived intentionally of his life, except in execution of the sentence of a court in respect of criminal offence of which he has been found guilty in Nigeria. One's right to life cannot be said to have been deprived of if one dies as a result of the use of force, permitted by law:

- i. For the defense of any person from unlawful violence or for the defense of property;
- ii. In order to effects a lawful arrest or to prevent the escape of a person lawfully detained; or
- iii. For the purpose of suppressing a riot, insurrection or mutiny.

Right to Dignity of Human Person: This implies that:

(a) No person shall be held in slavery or servitude; and

b) No person shall be required to perform or forced or compulsory labour. For this reason, it is an offence to beat up or lynch a suspected criminal. As long as he remains a mere suspect, he is entitled to his right to dignity of human person until a legally constituted court proves that he is a criminal. Even then, it is the court that has power to give appropriate punishment to the criminal. It is important to note that 'forced or compulsory labour as mentioned above does not include the followings:

1. any labour required in consequence of the sentence of a court e.g. labour undertaken by the prisoner;
2. labour required of members of the armed forces of the Federation or the Nigeria Police Force;
3. any labour required to protect the well-being of the community;
4. compulsory national service e.g. labour involved in NYSC.

Right to Personal Liberty: When we enact laws, make rules and regulations, impose customs on people, we there by restrict the liberty which an individual would otherwise possess. This kind of restraint may be considered desirable as a means of maintaining order in society (Report of The Political Bureau, 1987: 47). The constitution guarantees every citizen in the country the right to personal liberty. This right can only be forfeited in the following circumstances:

- i. If a person is found guilty of a criminal offence;
- ii. For the purpose of bringing a person before a court in execution of the order of a court;
- iii. In order to prevent a person from committing a criminal offence;
- iv. for the purpose of education or welfare of a person who has not attained the age of eighteen years;
- v. for the purpose of care or treatment of person suffering from infectious diseases, persons of unsound mind, persons addicted to drugs or alcohol or vagrants etc.

Right to Fair Hearing: The Constitution of the Federal Republic of Nigeria (1999), Section 36(1) says:- In the determination of his 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 or other tribunal established by law and constituted in such manner as to secure its Independence and impartiality. The right to fair hearing is guarded under two major principles, namely:

1. the Audi alter am partum principles and

2. the demo judex in causal sua prink.

The Audi alteram partum principles means that a judge must hear both parties to the dispute, while the principle of nemo judex in causal sua means that no one shall be a judge in his own case, that is no one should be the accuser, the prosecutor and the judge at the same time.

To ensure fair hearing, every person who is charged with a criminal offence shall be entitled to:

- a) be informed promptly in the language that he understands, and in detail of the nature of the offence;
- b) be given adequate time and facilities for preparation of his defense;
- c) defend himself in person or by legal practitioners of his own choice;
- d) examine, in person or by his legal practitioners, the witness called by the prosecution; and
- e) Have without payment, the assistance of an interpreter if he cannot understand the language used at the trial of the offence.

Right to Private and Family Life: The Constitution guarantees the privacy of citizens, their homes, correspondence, telephone conversations and telegraphic communications, it is an offence therefore to read a letter which belongs to another person or listen secretly to private telephone conversation; it is an offence to search somebody or his home without his permission or a special order of the court or warrant. According to Okoye, (1961. 72) while the individual recognizes certain duties and obligations as a member of society, he claims or should claim the right to non-interference from society in his private life, provided that his dealings with another is governed not by violence or coercion or barefaced fraud but by mutual concord.

Right to Freedom of Thought, Conscience and Religion: Every person shall be entitled to freedom of thought, conscience and religion including freedom to change his religion or belief, and freedom (either alone or in community with others and in public or private) to manifest and propagate his religion or belief in worship, teaching, practice and observance. (Section 38 in Nigeria Constitution, 1999). Justice Henry Abraham quoted in Anozie (1998:242) says "a person is universally guaranteed and protected under our constitution to believe what he chooses, to worship whom he pleases and how he pleases, always provided that he does impermissibly interfere with the right of others. The Constitution emphasize that, no person attending any place of education shall be required to receive religious instruction or to take part in or attend any religious instruction or observance if such instruction, ceremony or observance relates to religion other than his own, or a religion not approved by his parent or guardian.

Nigeria is therefore said to be a secular nation. This implies that:

- i. no one's religion shall be taken as superior or inferior to any other;
- ii. no person shall impose his own religion on the others;
- iii. no person shall be abused, or made mockery of because of his/her change from one religion or belief to another;
- iv. no one shall be disturbed from propagating his/her religion or belief so long as he/she does not disturb other persons' fundamental rights.

Right to Freedom of Expression and the Press: Russell,(1977: 141) in Bozimo & Ikwumelu,(2000) holds that "no progress would be possible in a world where only one doctrine on a doubtful subject could be taught and there would be no training in critical judgment in a world where no topic was ever debated"

Consequently the Constitution of the Federal Republic of Nigeria, 1999, Section 39 (i) provides that, every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and to impart ideas and information without interference. The right to freedom of expression and the press can be exercised through newspaper publication, radio and television discussions and public lectures. This right does not flow uncontrolled. For example, any speech or writing which amount to falsehood and which is injurious to the reputation of any person is wrong against that person. It is slander and the person so injured has the right to sue for damages.

Libel that is a written slander is also a criminal offence. Blasphemy is a criminal offence as well as the writing and publishing of indecent or obscene literature. Explaining libel further, the Supreme Court of Nigeria holds that libel arises from anything written, printed or published which reflects adversely on the character or conduct of another person and is published without any lawful justification or excuse. (In *Emendator Versus The Nigerian Army*, 1999), 9 SC p 89). Freedom of expression and the press form the substratum on which democracy thrives, where the freedom does not hold sway, the government cannot be said to be people-oriented. This is because;

- a) there will not be freedom of association;
- b) there will be no opportunity of expressing the evil deeds of those in power;
- c) there will be no way the veracity of government policies and opinions can be evaluated;
- d) government will be denied the opportunity of tapping from the opinions of the public;
- e) other human right can neither be demanded nor defended. Right to Peaceful.

Assembly and Association: The constitution says that every person shall be entitled to assemble freely and associate with other persons and in particular

he may form or belong to any political party, trade union or any other association for the protection of his interest. (Constitution of Federal Republic of Nigeria, 1999. section 40).

Anozie (1998:258) in Bozimo & Ikwumelu (2000:13) explains that freedom to peaceful assembly and association simply means the right of two or more persons to associate themselves together for a common purpose within the limits allowed by law. She goes further to emphasize that, the scope of this freedom extends only to peaceful assembly thus, does not give somebody the right to incite riots or disturb public.

Ways of exercising this right include formation of and belonging to such association/organizations as the Students Union, Town Unions, Market Women Association, e.t.c.

Right to Freedom of Movement: Every citizen of Nigeria is entitled to move freely throughout Nigeria and to reside in any part thereof, and no citizen of Nigeria shall be expelled from Nigeria or refused entry thereof or exit there from, (Constitution of the Federal Republic of Nigeria, 1999, section 41 (1)

It is important to note that this right is available only to every citizen of Nigeria. Foreign citizens residing in Nigeria can only enjoy this right subject to the genuineness and currency of their relevant immigration/emigration documents. Right to freedom of movement grants that seizure of a Nigerian citizen's international passport amounts to violation of human right. This aspect of the human right provision was invoked in Shugaba's case when he was deported to Chad by the Federal Government of Nigeria on the ground that he was not a Nigeria citizen. He contested this in court and it was held that he was a Nigerian and that the deportation order amounted to violation of his right to freedom of movement. It is equally noteworthy that though every citizen is entitled to move freely, this movement can be restricted if a person has committed or is reasonably suspected to have committed a criminal offence in order to prevent him from escaping. This is why suspected criminals are kept in the police custody or prison while investigations go on.

Right to Freedom from Discrimination: According to the Constitution referred to above (section 42). A citizen of Nigeria of a particular community, ethnic group, place of origin, sex, religion or political opinion shall not, by reason only that such a person (a) be subjected 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 (b) be accorded any privilege or advantage that is not accorded to citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religions or political opinions. No citizen of Nigeria shall be subjected to any disability or deprivation merely by reason of the circumstances of his birth. This

constitutional provision can simply be interpreted to mean equality before the law and equality of opportunities and considerations.

It can be noticed that the constitution prohibits discrimination on sex specific grounds. They are: (i) community (ii) ethnicity (iii) place of origin (iv) sex (v) religion (iv) political opinion. This implies that a citizen of Nigeria can be discriminated against on the grounds not mentioned above, such as education, age, physical/physiological qualities, and so on. This anomaly is however cleared in the other sections of the same Constitution especially in section 17 (1) (2) which says "the State social order is found on ideals of Freedom, Equality and Justice" and that, in furtherance of the social order every citizen shall have equality of rights, obligations and opportunities before the law.

Right to Acquire and Own Immovable Property Anywhere in Nigeria:

Section 43 of the constitution stipulates that "... every citizen of Nigeria shall have the right to acquire and own immovable property anywhere in Nigeria" section 44(1) of the same constitution further 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 part of Nigeria except in the manner and for the purposes prescribed by law that, among other things:

- a) requires the prompt payment of compensation therefore; and
- b) gives to any person claiming such compensation a right of access for the determination of his interest in the property and the amount of compensation to a court of law.

In considering the laws generally, one would note that people do not have regard for them. This is because Nigerian state is currently being faced with a lot of problems; some of these include the problem of selection and acceptability of leadership such as the June 12th 1993 presidential election, post election crises of 2011 which resulted in the death of several people and threats of secession by various units of the country. Some regarded themselves as born to rule and looked down on others as servants. The problems of ethnic militia such as the Niger Delta militants, Bakassi boys, Odua people Congress in the South East and West respectively and now the Boko-haram in the North all in the name of wanting leader of the whole states to come from their side.

There is the problem of endless bombing of public places in recent time and religious intolerance, continual boundary disputes as well as that of revenue allocation which lead to lots of lives and properties. No freedom of movement in the Northern part of the country and yet the human rights advocates freedom of movement. The issue of in the Northern side has to be checked. Sometimes a go, all the coppers were deported back home and recently those that were posted there rejected their posting mainly because of

Boko-haram and religious problems. Not only that people cannot move freely now at Delta areas for fear of being kidnapped and yet the law makers thinks that all is well in the country, it is far from it for the constitution/human rights is merely toothless bull-dog.

Conclusion

In conclusion therefore, students through social studies shall be exposed to the spirit of tolerance by teaching them unity in diversity of culture and religion; co-operation and the effects of conflicts. Nigerian students should learn right from the beginning that all Nigerians are equal in spite of social status, religious background. Societal values such as honesty, fair play, hard work, patriotism, obedience, discipline, loyalty, respect, self-confidence among others are to be taught by social studies as a subject. Students should be taught how to be proud of their country by teaching them national symbols such as national flag, national anthem, national pledge, currency, pictures of national heroes/leaders.

Skills essential to the forming of social, economic and political judgments and also be confessants with the roles of man, woman, youths children in the family, community and in the society as a whole so as not to be lured to any social ills in the society. They should also be exposed to human rights, duties and obligations of the individuals to society and their fellow citizens. Above all there is need for massive and extensive education of various target groups such as policy makers, opinion molders, traditional rulers, community leaders and the general public's on the their rights, duties and obligations to their community and to the nation as a whole so as to refrain from electoral malpractices, allow people to vote for the right person of their choice and discourage corrupt practices but to create an active and responsible citizenry willing to participate in the life of the state, wider world and play their roles in the democratic process.

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