

## DEMOCRACY AND HUMAN RIGHTS IN NIGERIA: A CRITICAL INQUIRY

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**ABSTRACT:** *Democracy has been generally acclaimed as the best protector of human rights amongst all forms of government. In many democratic nations of the world this is evidential, but in Nigeria the story is different. Democratic government of Nigeria, with regard to the issue of human rights protection is not too different from military dictatorship. It has been observed and rightly too, that government agencies are the worst violators of human rights and tacitly backed by the government. This paper challenges the Nigerian government that was democratically elected to uphold her statutory and definitional responsibility of respecting, protecting and enhancing human rights of her citizens and punish decisively any abuses of human rights. The citizens also should not be complacent about this, they should protest legitimately against such violations bearing in mind that violation of their rights dehumanizes them which should not be the case.*

**KEYWORDS:** Democracy, Human Rights, Nigerian Government, Violations/Abuses,

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### INTRODUCTION

Amongst different varieties of governments or regimes, democratic government is the greatest upholder and respecter of human rights. As such, expression of human rights blossoms most in a democratic setting. In Nigeria, democratic practice and its consequent protection of human rights are not what they ought to be. The flagrant violation of human rights in democratic Nigeria by so many governmental agencies casts doubt on the facticity of real democratic practice in Nigeria. Respect for human rights enriches democracy and makes it the best option among many others. The Nigerian democracy is stripped of its one of its beauties, (upholding human of rights), by the rulers and their cohorts. These people see themselves as above the law and have no regards for due process and rule of law. The immunity clause in the 1999 Nigerian constitution is an aberration of real democratic practice. People should be answerable for both their actions and inactions immediately and not after vacating offices. One of the beauties of democracy is the rule of law. This Paper calls for a real democracy in Nigeria rather than the civilian administration that exists right now in the country. It points out some government agencies that have no regards for human rights and how to deal with them, in order, to have real democratic Nigeria that can compare favorably with other democracies in the world.

### Articulating Democracy

Democracy from the time of the ancient Athenians to the contemporary period has been regarded as a people oriented kind of government. This notion is gotten from its etymological derivation – “demos and Kratos”, meaning rule or government by the people. In the view of Sabine & Thorson(1973), the Greek Euripides clearly posited a democratic state as one that is ruled by the people through their representatives who are answerable to them. They went further to note the position of Rousseau in this regard as the government of the people for the General Will. This simply implies that the action of the government must be in fulfillment of

the Will of the people which naturally is their welfare. As a matter of fact, the government must abide by the rule of law and make available to the people a system of education that will inculcate in the children the idea that the idea of the realization of their individuality resides in their affiliation with the state, a kind of citizenship education. Appadorai (2003), thought of democracy as a system of government under which the people exercise the governing power either directly or through representatives periodically elected by themselves. According to Jega (2007), democracy is ancient in origin but continued to evolve, thereby, having varied meanings to various people, such as People's Democracy; Guided Democracy; People's Democratic Dictatorship (Chinese). Akinsanya (2000), in his own contribution maintained that democracy not only means a form of government in which the people rule in contradistinction to monarchies, aristocracies and gerontocracies; it also entails a state in which there is some form of political equality among the people. He went on to state that the central pillar of democracy the world over is based on the control of government by the people through free elections and universal adult suffrage. Therefore, only a democratic government, established by the consent of the governed in accordance with their shared values, has the moral authority to act as the legitimate agent of the people. Thus, democracy has been defended on the grounds that it achieves a number of fundamental values and goals; equality, liberty, moral self- development, the common interest, private interests, social utility, the satisfaction of wants and efficient decision. For authentic democracy to be on ground there must be as a matter of utmost necessity an independent electoral umpire, a strong and vibrant judiciary, an enlightened populace, a robust and free press, democratic culture and atmosphere of peace, and security.

Coming home to Nigeria in terms of democratic practice, we assert that the primary instrument of democracy today is the 1999 constitution as amended. From 1999 till date, the question we always ask is, do we really have real democratic government or civilian government and what is real or consolidated democracy? To the first question, the obvious answer is no democratic government since the basic features of democracy are not present. These features are contained in the definition of consolidated democracy which Akinsanya (2000), said is measured by the extent to which a country has regular and fair elections, genuine contestation over selection (or election) of leaders and the choice of policy outcomes and citizenship participation in the electoral process.

As a matter of fact, the regimes that took over power since 1999 cannot be called consolidated democratic regimes if we use the constitution as a guide, this entails measuring their performances using as yardstick by-products of consolidated democracy such as predictability, transparency, accessibility, adherence to constitutionalism and the 'rules of the game', respect for human rights and the rule of law, public accountability and the system of checks and balances.

It is really unfortunate that after almost eighteen years of democratic experimentation in Nigeria democratic values have not been established. What one notices everywhere is civilian dictatorship which manifests itself in flagrant violation of human rights of the ordinary citizens of this country. The concept of separation of power which lubricates democracy is a mirage in Nigeria. The 'executive' flexes its muscles arbitrarily and always crows both the 'legislative' and the 'judiciary' and reduces them to mere puppets. In Nigeria the legislature and the judiciary are simply the 'will' of the executive.

## **The Concept of Human Rights**

For Iwe (1986), the issue of human rights cuts across ages and epochs – from the Greek world through the Roman, Medieval, Modern and Contemporary periods. And conscious and awareness of them continued to increase as the years go by, likewise their development and interpretation. Ojo (2006), was more specific in his attempt to trace the origin of the concept. For him, human rights are often traced to the stoics of the ancient Athens. Zeno who was the founder of the stoic school of thought propounded the theory of natural law under which human beings were supposed to have natural rights.

To prevent the violation of these rights that were ‘immortal’ in a sense, efforts were made to legislate against their violation with impunity. According to Ogundele (1985), the year 1188 was very remarkable in the history of human rights because it was the year that happened to be earliest known efforts to enhance human rights by King Alfonso IX, who included the rights of accused persons to a regular trial and the right of inviolability of life, honor, home and property as part of human rights. However, this earliest attempt was limited to the nobles alone.

In terms of the definition of human rights, it can be said that in spite of the abundant writings the concept has generated, the term human rights does not lend itself to a precise definition. Indeed, there has never been a generally accepted definition of human rights among jurists, other scholars and commentators. It is a concept that can be best described rather than defined (Ajomo, 1985). However, despite the problem of not having a generally accepted definition of the concept, the attempt of two scholars in talking about it impressed me a lot. For Humana (1983), it is laws and practices that have evolved over the centuries to protect ordinary people, minorities, groups and races from oppressive rulers and governments. Irele (1983), distinguished between legal and moral rights as relates to human beings. Legal rights are clearly stated in the legal system while moral rights are not. Moral rights are really regarded as ideal rights. The most important class of ideal or moral rights is that of human rights. Human rights are rights that are held by all human beings unconditionally, unalterably and they are inalienable.

According to Aduba (2012), human rights as those rights that are the very nature of every human persons, hence, they define and affirm their humanity, therefore, they exist to ensure that human rights remain sacred and guarantee that inhumanity and injustice are prevented or reduced. He went on to maintain that since these rights are inalienable, they are not to be taken away or given up and also they are indivisible, there is no hierarchy among rights and no right can be suppressed in order to promote another right.

Equality and Human Rights Commission (EHRC) holds that ‘Human rights are the basic rights and freedoms that belong to every person in the world, from birth until death. They apply regardless of where you are from, what you believe or how you choose to live your life. They can never be taken away, although they can sometimes be restricted- for example if a person breaks the law, or in the interests of national security’.

Expanding this apt definition of human rights, United Nations Human Rights Council (UNHRC) posited that ‘Human rights are rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. We are equally entitled to our human rights without discrimination. These rights are all interrelated, interdependent and indivisible.

These rights that are really inalienable to man are comprehensively noted by Iwe (1986), to include but not limited to the following:- (a) the right to Life (the status of the conceived but unborn child), the right to live, the right to corporal integrity, the right to a decent and healthy standard of living; (b) the fundamental Social rights:- the right of meeting and association, the right of freedom of movement and residence within the state, the right of emigration and immigration; (c) the fundamental Moral-Cultural rights:- man's right to Respect and to his good name(reputation), the right to education, the right to learn and investigate the truth; (d) the right to free Choice of State of Life;- the right to religious freedom, the right to a free choice of Profession/Occupation; (e) the fundamental Economic rights:- the right to the use of material goods, the right to work, the right to a just and adequate remuneration, the right to possess and own; (f) fundamental Civil-Political rights:- the right to equality, the right to equal legal protection, the right to take part in government.

The 1999 Nigerian Constitution (as amended) seemed to derive much from Iwe's content of human rights in stating its own fundamental human rights that apply to every Nigerian citizen. These are the fundamental rights as enshrined in the 1999 Constitution. (1) Right to Life. Article 33 states that 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. (2) Right to Dignity of Human Person. Article 34 has it that every individual is entitled to respect for dignity of person and accordingly, no person shall be subjected to torture or to inhuman or degrading treatment. No person shall be held in slavery or servitude and no person shall be required to perform forced or compulsory labour. (3) Right to Personal Liberty. Article 35 requires that every person shall be entitled to his personal liberty and no person shall be deprived of such liberty save in the following cases and in accordance with a procedure permitted by law. (4) Right to Private Life. Article 36 prescribes that in the determination of civil rights and obligations including any question or determination by or against any government or another, 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 a manner as to cure its independence and impartiality. (5) Right to Private and Family life. Article 37 says that the privacy of citizens, their homes, correspondence, telephone conversations and telegraphic communications is hereby guaranteed and protected. (6) Right to Freedom of Thought, Conscience and Religion. Article 38 states that every person is 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 the public or in private) to manifest and propagate his religion or belief in worship, teaching, practice and observance. (7) Right to Freedom of Expression and the Press. Article 39 states that every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas, information without interference. (8) Right to Peaceful Assembly and Association. Article 40 states 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 interests. (9) Right to Freedom of Movement. Article 41 has it that 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 refuse entry thereto or exit therefrom. (10) Right from Freedom from Discrimination. Article 42 holds that 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 be subjected either expressly by, or in the practical application of, any law in force in Nigeria or any executive or administrative action of government, to disabilities or restrictions to which citizens of other communities, ethnic

group, places of origin, sex, religions or political opinions are not made subject. No citizen of Nigeria shall be subjected to any disability or deprivation merely by reason of the circumstances of his birth.

### **A Glance at Human Right Situation in Nigeria**

Having seen the general contents of human rights and those enshrined in the Nigerian 1999 constitution as amended, we now situate it on the Nigerian society. We begin by stating very emphatically that no system of government guarantees respect for human rights more than a democratic government. Hence, when power shifted from the Military to the democratically elected government in 1999, Nigerians were full of confidence that human persons will now begin to enjoy these rights that are fundamental to them. However, Nigerians were shocked to observe that the violation of human rights that obtained during the Military dictatorship never abated. What we still have is gross violation of human rights with unprecedented crescendo in every aspect of it. In this paper just few instances of this violation are noted. Nigerians will not forget in a hurry what has been termed the 'Odi Massacre'. Odi is a town in Bayelsa state in the South South region of Nigeria where the inhabitants were agitating the way the Federal Government of Nigeria was going about the exploration of oil there which left their habitat inhabitable as a result of oil pollution. The Federal Government, democratically elected, led by Olusegun Obasabjo ordered the military to descend on the town on the 20<sup>th</sup> November 1999, which left about 2,500 civilians dead as reported by Human Rights Watch (accessed). Here the fundamental right of life has been violated by a government that supposed to be democratic.

Not long after the seeming holocaust at Odi community, the Nigerian military once again ferociously descended on a town in Benue state called Zaki Biam on the 22<sup>nd</sup> October 2001. In this military display of brutality, about 100 civilians were killed from the Tiv ethnic community. Their offence was an alleged abducting and killing of 19 soldiers that were sent there to restore peace in that troubled region. There was crisis between the Tivs and Jukuns of that State and because the mutilated bodies of the slain soldiers were found in Zaki Biam community, the military called them for a meeting where they were killed and set ablaze – a clear violation of right to life.

In February and May 2016, security forces were accused of killing at least 40 members of the Indigenous People of Biafra (IPOB) and Movement for the Actualization of the Sovereign State of Biafra (MASSOB). The groups were and are advocating for the separation of Biafra – mainly made up of Igbo speaking of the southeast and south south and the release of Nnamdi Kanu, the IPOB leader detained and undergoing trial for treason since October 2015.

According to World Report (2017), in the crude oil rich Niger Delta, media reports say that on September 8 2016, soldiers seeking to arrest members of the militant group – Niger Delta Avengers, destroyed 43 houses and other properties in Peremabiri, Akamabugo and Tikogbene communities of Bayelsa State.

Despite all these noticed and noted human rights violation in a democratic Nigerian government, the one that goes on everyday but is not talked about is that of the dignity of the human person expressed in the right to descent environment. The violation is carried out by both the agencies of the government and ordinary citizens in different aspects. In democratic Nigeria it has become a common thing to observe with dismay incessant and unauthorized blaring of sirens by government and quasi-government officials and some ordinary citizens as

well. As a follow up to this is indulging in actions offensive to innocent eyes and mind such as:- (a) abuse of other road users by these self acclaimed superior citizens. These people don't observe traffic laws and even drive against the flow of traffic unchallenged. The military and police are the worst culprits in this regard, instead of carrying out their statutory responsibility of maintaining law and order. (b) again, so often the Nigerian citizen is helpless and endure painfully the loud noise coming from loud speakers mounted in some of the churches and mosques and those from merchants of music in the neighborhoods. Freedom of worship enshrined in the constitution is never freedom of noise making. Painfully, government has no regulation in this regard. (c) Dumping of refuges/wastes along our roads and streets. So many cities in Nigeria today are known for this ugly and unfortunate trend despite the facts that the citizens pay their taxes to the government to take care of this kind of responsibility. (d) Another despicable practice in this regard is the is urinating indiscriminately along our high ways and other exposed areas. This is an indecent exposure that offends against innocent eyes and minds. Government should take up the responsibility of providing convenient spots along our high ways for her citizens. (e) Nigerian citizens should realize that unreasonable over loading of vehicles, throwing out wastes from moving vehicles and jumping of queues in public places, etc, constitute violation of right to decent environment which is derived from that of human dignity and invariably to that of life which is a fundamental right.

Succinctly put, human rights violations especially that of Life and Human dignity by governmental agencies and private citizens, thrive in these instances obtain in Nigeria; menace of Boko Haram insurgency and other acts of terrorism, Militancy in the Niger Delta region, Kidnapping, Bribery and Corruption, Government insensitivity, Unemployment, Inflation, poverty, Police and Military brutality on civilians and the like, as noted by Ogoloma,et al,(2014).

## CONCLUSION

One of the best governments in the world today is democracy embedded in the rule of law. It is this aspect of the rule of law that makes democracy very attractive. Even governments that are not democratic still cling to the rule of law. Emphatically, the rule of law guarantees human rights protection. Rule of law (that is, the law is supreme, nobody is above the law), is what is lacking in the Nigerian form of democracy. The democratic Nigerian government is fond of disobeying court rulings, abuses court processes, arrests and detains both real and imagined enemies without trial and releases some of them unconditionally (as a result of innocence) without compensations and apologies. This paper , having highlighted some cases of human rights violations by both government and private citizens advocates faithfulness to statutory and constitutional responsibilities by all and sundry. Nigerians should know their rights and insist on them being respected without fear of intimidation, victimization and contradictions. The Mass Media, both electronic and print should mobilize the people to live up to their obligations in order to rightly ask government questions and demand respect for human rights and reparation when abused. Nigeria with all her resources both natural and human should be a model for liberal democracy and rule of law that safe guards human rights.

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