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THE RIGHTS OF CITIZENS IN 21ST CENTURY NIGERIA: A COMMENT

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Introduction

With the advent of the 21st century, which coincides with the new millennium, the hope for a 'better life' is indeed very high globally. To borrow Staley's words, in under-developed countries, there is "the revolution of rising expectation" (13). By virtue of the fact that one of the internationally acclaimed barometers for appraising the performance and level of development of any polity is the human rights record, it is expected that we attempt a prognosis of what the rights of an average Nigerian would be in this new millennium.

However, the concern for human rights is, according to wild, as old as humanity itself (2) though, the expression 'human rights', as a term or art, is of recent origin (50). The idea of the inalienable rights of man postulated by poets, philosophers and even politicians as a normative ethical concept predates the very political system which produces law-making institutions as we know them today. Sophocles (C496-406BC), who lived through the great age of Athenian civilisation and died before the fall of Athens at the end of the Peloponnesian war, in *ANTIGONE*, says to King Creon "but all your strength is weakness itself, against the immortal unrecorded law of God" (4). Here, Sophocles was talking about the higher rights, the law of nature, the natural right (5) of the human being and the sanctity of the human person. Thus, it can be observed that in the course of the development of the notion of human rights, the theory of natural law has always played a dominant role (5).

To prevent the violation of these rights that were 'Immortal', efforts were made to legislate against their violation with impunity. In 1188 which happened to be the earliest known effort to enhance human rights by King Alfonso IX who included the right of accused persons to a regular trial and the right of the inviolability of life, honour, home and property. But the snag with this earliest attempt was that it was limited to the nobles alone (25). King Andrew II of Hungary (1222), in his Golden Bill, ensured that no noble man was arrested or brought to ruin without first being convicted in conformity with judicial procedures. Later in 1215, came the Magna Carta (the Great Charter) of King John at Tunnvmde which states:

no free man shall be taken or imprisoned ... or exiled or, in any way destroyed ... except by the lawful judgement of his peers of (and) the laws of the land

In the 17th century, the pursuit of human rights was in England against the non-observance of the ancient right of English men. Out of these struggles, there came two great documents – the Petition of Rights of 1628 and the Bill of Rights of 1689. These documents and their texts had formed the basis of the immortal passages of the American Declaration of Independence (1776) of the Virginian Bill of Rights (1776) and of the French Declaration of the Rights (1791).

In the 1789 French Revolution, the significance of this principle was not left out as the Declaration of the Rights of man. The Russians in their 1918 Lenin Constitution too gave prominence to human rights but extended it to the economic sphere when factors of production were centralised for the benefit of the citizenry. This new concern for the rights of men found further expression in the covenant of the League of Nations. But the covenant was much more concerned with the

obligations of states to respect the rights of other states than with the promotion of rights of individuals (25). That reservation, as stated by wild, reflected the traditional belief that the rights of citizens are a matter for the state and not for the international community (4).

Be that as it is, it was Adolf Hitler and the remorseless attack that he launched against the rights of man in Germany with his objective of annihilating the Jews under the auspices of his 'Aryan' race concept in the thirties that brought home to the ordinary man the hard fact that the protection of human dignity cannot stop at national boundaries alone. When Hitler plunged the whole world into the Second World War, people everywhere soon saw that the struggle was a crusade for basic rights and freedom. Thus, before the war ended, the protection of human rights was placed along side peace itself as the goal, and the objective of the new world organization that was already foreseen (4). It is against these historical antecedents that the United Nations Charter adopted the Universal Declaration of Human Rights in 1948 (4). Commenting on it the UN General Assembly, during the session which saw the adoption of this text, declared:

For the first time, an organised group of nations was proclaiming the fundamental rights and liberties with the support of the whole UN and of millions of men and women throughout the world (217).

Nevertheless, the declaration has inspired and given birth to the European Convention of Human Rights which also inspired many of the post-war constitutions including those of Nigeria from independence in 1960 to 1999.

Conceptualising Human Rights

As rightly observed by Chafe (131), the primary requirement for debating anything is to understand first and foremost the actual thing being talked about. No one is likely to dispute the suggestion that this elementary fact is often being taken for granted particularly as it relates to the debate on human rights. For one thing, perhaps, there is no concept which has been so flagrantly used (and mis-used), abused, as well as paraded under all sorts of interests and guises a 'human rights' save the concept of 'democracy'. The reason for this is that it is an "essentially contested concept", which does not lend itself to any universally accepted definition because of the ideological, cultural and historical contextualisations that under-pin it.

At this juncture, it need be emphasised that many concepts in the social sciences like power, justice, peace, equality, freedom and 'human rights', lack consensus definitions; they fall into the category of concepts which W.B. Gallie calls 'essentially contested concepts' (122). Such concepts necessarily generate unending debates about their exact meaning and application because, as Richard Little points out, they may contain "ideological element which renders empirical evidence irrelevant as a means of resolving the dispute" (35). Even an apparently concrete concept like the 'state', virtually defies a generally accepted definition because of its essentially contested nature too (6).

Therefore, in spite of the abundant literature it has inspired, the term does not lend itself to precise definition. Indeed, there has not been an acceptable definition of human rights among the jurists. It is a concept that can best be described rather than defined to quote Ajomo (3). It should be noted that the concern with human rights in the world today stems from the perception widely shared with Rousseau that man, though born free, is everywhere in chains, as against quoted by Dominguez (25). Today, increasing awareness,

coupled with insuring them rampant violation has made the term 'human rights' a song sung by almost everybody, yet the contradiction, unclarity, inconsistency, confusion, misinterpretation, absurdity and plain stupidity that pervade notions of human rights are quite telling as seen by Tajudeen (5). No wonder Julian Huxley wrote inter alia:

It is no longer possible for us, as it was for our ancestors in the Age of Reason to conceive of Human Rights as existing in the abstract merely waiting to be deduced from first principles by the human intellect (51).

Meanwhile, it is no longer possible for us, as it has been until recently for legalists and institutionally oriented political scientists to conceive of human rights as little more than the documentary results of enlightened legal processes (51).

Human Rights, therefore, is an ambiguous concept leaving little room for a definitional consensus. While the Western industrial system tends to define it in terms of political and civil liberties, Third World nations seem to focus on the basic needs of food and shelter as a prerequisite for human dignity and eventually civil rights, according to Park (406). Whenever the Anglo-Saxon and Judeo-Christian civilisation adhere to the centrality of individual rights as opposed to group rights, the Islamic world, however, tends to regard individuals as subordinate parts of the state or community (13). While polyarchical systems place emphasis on political freedom, socialist systems choose to accentuate social and economic equality (42). Thus, defining the concept of human rights in the narrow terms of civil liberties would not be acceptable to societies striving for social equality or the satisfaction of basic needs. By the same token, any definition of human rights devoid of concern with political freedom will not be viewed as legitimate in the context of industrial western societies.

Despite the controversy generated by attempts to define human rights, some scholars have attempted to conceptualise it. To Humana, it is

laws and practices that have evolved over the centuries to protect ordinary people, minorities, groups and races from oppressive rulers and governments (40).

To Vance, it can be conceived in three ways. First, there is the right to be free from governmental violation of the integrity of the person. Second, there is the right to the fulfillment of such vital needs as food, shelter, health care and education. Third, there is the right to enjoy civil and political liberties (5-6). Thomas Jefferson put forward a definition of human rights when, in 1887, he wrote from Paris to James Madison about the necessity to safeguard individual liberty and the need for a bill of right. He was of the notion that "... a bill of rights is what people are entitled to against every government on earth" (21).

To extend the definition further would not serve us any useful purpose. Hence, we can resort to the definition of Ajomo, who post is that when we talk of human rights or the "rights of man", we are referring to those rights that are recognized and predicated in a civilized legal order, rights which are specified in written constitutions or in judgement of a Supreme Court or in enactment of a legislature designed to make the constitution more specific in certain areas (4).

In view of Nigeria's existential realities as a polity that has been alternating between democracy and military autocracy, we can classify all elements of human rights into two. First, we have those ones which are totally unaffected by the fact that the polity is being governed by the military. Secondly, we have those rights, which are necessarily affected by the existence of a

military government. The first category includes: (i) the right to life; (ii) right to human dignity; (iii) right to private and family life; (iv) right to freedom from discrimination and (v) the right to receive compensation for compulsory acquisition of property. The second category of rights which are affected by military governments are: (i) right to personal liberty; (ii) right to fair hearing; (iii) freedom of expression; (iv) right to peaceful assembly; (v) freedom of association and (vi) right to free movement (7).

Mechanisms for the Protection of Human Rights

In virtually all political systems there are institutional mechanisms put in place to protect the rights of man. One major safeguard in Nigeria is the constitutions which normally stipulates the catalogue of the fundamental human rights of the citizenry. Nigeria's successive constitutions from 1960 to date made these rights justiciable so that citizens, whose freedom is infringed upon either by another individual or government made by law, can institute legal actions against such individual or body redress. But constitution making itself in Nigeria is a serious curtailment to the rights of the citizenry in two ways. First, the making of Nigerian constitutions is rather too elitist; they are in most cases impositions on the civil society either by colonial masters during British colonialism or by the military oligarchy during military autocracy.

Similarly, other than constitutional provisions, Nigeria is a signatory to a number of treaties and declarations such as the U.N. 1948 human rights declaration and the African charter on human and people's rights popularly known as the Banjul charter. The efficacy and the weaknesses of these Charters are so well known that we need not recount them here (78).

One other safeguard, especially in a presidential system of government is that of separation of powers. To Stuart Gorin, the notions of presumed innocence and a fair and speedy trial by

a jury are key elements within a society that separate the judiciary from the executive and legislative branches at all levels of government. He alluded to America by stating that this separation of powers, established by the framers of the U.S. constitution in 1887, ensures that each branch of government performs a different function but with series of checks and balances to ensure cooperation. The judiciary is concerned with the administration of justice at every level, from the U.S. Supreme Court to the local justice of the Peace and Magistrates. A suspect in a system where human rights are guaranteed has the right to an attorney to help in the defence against a charge; if that person cannot afford to hire an attorney, then one should be appointed at government expenses.

In any criminal case where bail is denied, defendants incarcerated prior to and during a trial are still afforded their basic human rights and are treated accordingly. Safeguard of human rights extends to even prisoners who are not supposed to be served foods that are not permissible under their faith; at times, the presiding judge may order the prison authorities to allow inmates to perform their religious rites. It is not surprising that at the point of death, those found guilty of capital offence are asked to pray to God in whatever mode that is in line with their faith.

Safeguarding human rights also extends to right to appeal while a defendant should not be tried more than once for the same offence. To achieve this, the judiciary must necessarily be made independent so that it can discharge its duties without fear or favour. The constraint on this safeguard is the mode of appointment of judges in Nigeria. Despite the existence of Judicial Service Commission, the Executive President still wields enormous power in the nomination and appointment of Supreme Court Judges.

One other thing that is crucial to the protection of human rights is a boisterous press. As the fourth estate of the realm, the media educate the public on state affairs, disseminate information on the activities of the government which are most often secretive, expose wrong-doings including corrupt practices which impact negatively on economic development and keep the government on its toes in order to ensure "accountability, transparency, probity and integrity". The press then comes in as the defender of the defenceless in terms of being the bulwark against tyranny, intoxication of power and exploitation of the under-privileged. But the limitations of the mass media in Nigeria make them too weak as the defender of the defenceless.

In Scandinavian Countries and several modern democracies, Ombudsman, or what is popularly known as the Public Complaint Commission, or what is allowed and charged with the responsibility of investigating any action of government or its agencies that may infringes upon the rights and liberty of individuals within the state. This commission does not charge any fee for its services and it is no substitute to a regular court of law. As much as this body is effectively on ground in Nigeria, its weaknesses are equally well known these they have been well documented alongside the needed reforms (3). Also, bodies like Amnesty International, the International Commission of Jurists (ICJ), the International Committee of the Red Cross (ICRC), among others, also do complement efforts at safeguarding human rights.

Human Rights Constraints

This part is to consider some articles of the UN, such as the Universal Declaration of Human Rights of 1948 vis-à-vis the Nigerian situation. As a audable and a gallant declaration, which has been translated into over 200 languages and become part of the constitutions of many countries, the gap between intent and actual practices is still wide in the Nigerian context.

With the commencement of the 21st century and the new millennium, perhaps the most acute constraint on human rights in Nigeria is the embarrassing level of illiteracy in the country. It is generally believed that the best insurance against human rights violation is to be conscious of those rights. But "while most developed democracies have literacy level of 70% and above, Nigeria's is presently 43%, and may have even slipped in the last few years. With this large chunk of the citizenry being stark illiterate, mobilisation of the civil society becomes more tasking. The concomitant effect of the high level of illiteracy is the fact that majority of the citizens become apathetic and unable to partake in decision-making processes that affects their kinsmen. The low literacy level occasions a mirage because of scanty readership; it affects media effectiveness? Considering the nexus between illiteracy, human rights abuse and democratic sustenance, Ojo, J. D. avers:

Democracy is not safe in a country where a large majority of the population is illiterate. Their inability to understand the problems of government is readily available. Worse still they become very strange bed-fellow to politicians who make extravagant promises (169)

In the same vein, a society with a low literacy level cannot but be weighed down by superstitions, taboos and retrogressive cultural dispositions. For instance, Article 1 of the UN declaration stipulates thus "all human beings are born free and equal in dignity and rights". Gender disparity is a serious curtailment of this in the African context generally and in Nigeria in particular. On December 10, 1997 which was Human Rights day, First Lady of the United States, Hillary Clinton told the UN

that the world continues to "treat women as less than complete citizens", she gave some examples.

Of the world poor, 70 percent are women. Two thirds of the world's 130 million children unable to attend school are girls. Two thirds of the world's 96 million illiterates are women (8). Nigeria, being one of the poorest countries of the world, shares part of these gloomy data. In fact, till date the Nigeria Police Force (NPF) has an unofficial attitude of disallowing women from standing as surety and taking bail of suspects whatever their status in the society.

Furthermore, articles 23 and 25 stipulate respectively that "everyone who works has the right to just and favourable remuneration ensuring for himself and his family and existence worthy of human dignity" and that "everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care". However, as rightly observed by Chief Obafemi Awolowo, poverty is a very serious problem with the following characteristics: inability of one to have the means to satisfy the necessities of life, under-nourishment of malnutrition; wretched and degrading shelter, shabby clothing and lack of any kind of luxury (30). It is very difficult to claim that majority of our people cannot be categorised as poor. Many Nigerians are poor at one time or another during their lives, but many Nigerians are poor all their lives. (3). The effect of poverty is Pervasive. In an address, the Nigerian eminent, Akinola Aguda stated thus:

The practical actualisation of most of the fundamental rights cannot be achieved in a country like ours where millions are living below starvation level ... in the circumstances of this nature, fundamental rights provisions enshrined in the constitution are nothing but meaningless jargon to all those of our people living below or just at starvation level (7).

In another distinguished lecture, he reiterated as follows:

... to think that a very poor person can have a meaningful day in court in the pursuit of his real or imaginary human rights is to live in fools paradise (8).

Be that as it is, the fact that Nigeria alternates between democracy and military autocracy makes the protection of human rights pretty difficult, as rightly put by Claude Ake:

The military and democracy are in dialectical opposition. The military is a taut chain of command; democracy is a benign anarchy of diversity. Democracy presupposes its total absence, the inhuman extremity of killing the opposition. The military demands submission, democracy enjoins participation; one is a tool of violence, the other a means of consensus building for peaceful co-existence (1)

In essence, safeguard human rights in Nigeria entails keeping the military permanently in the barracks.

Conclusion Remarks

There are two major recommendations by this paper to enhance the safeguard of human rights. First, Nigerians from all strata of the society need to imbibe a congruent attitude towards observance of human rights generally from the private realm of politics to the public realm. Secondly, all cultural traits that inhibit protection of human rights and liberties should be discarded if Nigeria is not to lag behind in the new millennium. In the final analysis, it need be emphasized that the present concentration of attention on human rights' in terms of individual

persons is insufficient in the new millennium. It is in this regard that Eghosa Osaghae has reawakened our consciousness to group rights too, without which safeguard of human rights becomes a ruse. The restiveness of the youths Niger Delta region of Nigeria, supplying the bulk of the country's oil revenue suffices to buttress this argument. A system where one is robbing Paul to pay Peter is an aberration to the safeguard of the inalienable rights of man.

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