

## AN ANALYSIS OF HUMAN RIGHTS, HUMAN DIGNITY AND PARADIGM SHIFT IN NIGERIA

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### **Abstract**

*This paper is an attempt to examine human rights, human dignity and the paradigm shift in Nigeria. As we all know, the world today, has accepted the notion that all human beings are entitled to and are empowered for a dignified existence. It is a common phenomenon that human beings everywhere, demand the realization of diverse values to ensure their individual and collective well-being. However, these demands or rights are denied through exploitation, oppression, persecution, etc, in many countries of the world. Today it has become an almost universally recognized and accepted concept that individuals possess certain definite political, civil, economic and social rights which governments have the duty and responsibility of protecting and enforcing such rights. The concept of Human Rights cannot be taken away from man because these are rights to which we are entitled because we are human. As such every man is entitled to such rights and cannot be eroded by another. In Nigeria, the human dignity and human rights seems to be a case, where Human rights are not respected. Extra-judicial killing, unlawful detention, and other series of human rights abuses are still prevalent in Nigeria society. In addition, Fundamental rights are those species of human rights which have been recognized and incorporated into the constitution of any nation. So rule of law means that everybody no matter your position is under the law, that is, the law is supreme. Not only that the law is supreme, it is also its duty through justice system and other government agencies to protect the rights and dignity of human person. The methodology used in this study was a desk based library method where the knowledge gained from various literatures as well as conceptual, theoretical, and empirical studies reviewed formed the basis for conclusion and recommendations.*

**Keywords:** *Human Rights, Human Dignity; and Justice System*

### **1. Introduction**

Human rights have pervaded much of the political discourse since the Second World War. While the struggle for freedom from oppression and misery is probably as

old as humanity itself, it was the massive affront to human dignity perpetrated during that War, and the need felt to prevent such horror in the future, which put the human being back at the centre and led to the codification at the international level of human rights and fundamental freedoms. Article 1 of the Charter of the United Nations declares “promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion” as one of the purposes of the Organization. Thus, human rights are the bedrock principles which underpin all societies where there is rule of law and democracy. Since the end of World War II, the core importance of human rights has been universally acknowledged. Today, against a backdrop of multiple conflicts, humanitarian emergencies and severe violations of international law, it is all the more essential that policy responses be firmly grounded in human rights, and that States comply with the binding obligations they have contracted when ratifying international human rights treaties. From the fight against violent extremism to the struggle to eliminate poverty and our approach to managing migration, international human rights law provides an essential framework and guidance to responsible and sustainable policy-making.

In view of the above, the paper provides an insight into the patterns and experiences of human rights issues that have not only become a global concern but remarkable interest aimed at protecting and promoting universal respect for, and observance of, as human rights has continually been shown at the international, regional and national levels against the practices in Nigeria.

### **Conceptualizing Human Right**

The word ‘right’ is derived from the Latin word *rectus* which means that to which a person has a just and valid claim, whether it be land, a thing or the privilege of doing something or saying something. The notion of ‘human rights’ which originally is referred to as ‘the rights of man’, each individual within the society possesses certain claims and rights that cannot be taken away and the major reason for individuals coming together to form a government, is for the protection and fostering of these rights and to allow for the continuity of humanity.

The UN defined human rights as those rights which are inherent in our state of nature and without which we cannot live as human beings (Mishra, 2000). Shree (2017) said human rights are the inherent dignity and inalienable rights of all members of the human family recognizing them as the foundation of freedom, justice and peace in the world. For Raphael (2015), human rights in a general sense denote the rights of humans. However, in a more specific sense, human rights constitute those rights which one has precisely because of being a human.

In the context of the present study, human rights can be defined as those rights without which human beings cannot live with dignity, freedom (political, economic, social and cultural) and justice in any nation or state regardless of colour, place of birth, ethnicity, race, religion or sex or any other such considerations. These rights are inherent in human nature and therefore guaranteed and protected by the state without distinction of any sort. When such rights are denied to an individual, whether by the state or non-state actors, it constitutes human rights violations.

### **Human Dignity**

The concept of human dignity plays a central role in many legal and political

theories (Dworkin, 2011). In some legal theories, human dignity is the singular purpose or end to which law should be oriented (International Law of Human Dignity, 1959). Some commentators have claimed that human dignity is the only absolute value in a world of plural values and commitments (Human Dignity in Comparative Perspective, 2009). The concept also occupies a prominent place in numerous national and international legal documents as well as judicial decisions.

Generally speaking, the current discourse on human dignity starts with two seemingly contradictory assumptions. Human dignity is the dignity that humans have by virtue of the fact that they are humans, irrespective of who they are and where they come from. In this sense, human dignity aspires to universal validity. This is what David Luban in another context has referred to as 'humanness'.

It is an exaggeration to say that "the conception of humanity as expressed in the Universal Declaration of Human Rights has become the only valid framework of values, norms and principles capable of structuring a meaningful and yet feasible scheme of national and international civilized life." (Weisstub 2002: 2) But this claim does contain a kernel of truth. The Universal Declaration may not be the only valid framework. It is, admittedly, an incomplete framework. Nonetheless, it does represent a realistically utopian cross-cultural vision of the demands and possibilities of our moral nature, a vision that has something like universal validity for us today.

## **2. Methodology**

The methodology used in this study was a desk-based library method where the knowledge gained from various sources, as well as conceptual, theoretical, and empirical studies reviewed, has been presented and analyzed to weigh the evidence they provide with reference Human rights, human dignity and paradigm shift in Nigeria.

### **Issues and Patterns on Human Rights, Human Dignity in Nigeria**

The ability to peacefully express one's views and grievances, freely and without fear, is a fundamental human right, an imperative for effective development processes, and central to most people's conceptions of a dignified life. Magnified and echoed by new communications technologies and an increasingly organized civil society, the exercise of that right is changing the world around us at unprecedented speed.

According to the ICCPR it is the responsibility of all states to ensure the life, liberty and security of its citizens. It shall also be the duty of the state to guarantee that no one is subjected to arbitrary arrest and detention or to torture and that everyone is entitled to a fair trial. Everyone has the right to freedom of thought, conscience, religion and freedom of expression. Under the ICESCR, all governments are expected to progressively improve the living conditions of their citizens, they should make efforts to guarantee the right to food, clothing, housing, medical care and protect the family by ensuring the right to social security, education and employment. They are to promote these rights without discrimination of any kind (United Nations High Commissioner for Refugees, 2005).

Section 17 of the Nigerian Constitution of the Federal Republic, the states that, all citizens, without discrimination whatsoever have the opportunity for securing adequate means of livelihood as well as adequate opportunity to secure suitable employment. Further, the state is obliged to ensure that the conditions of work are

just and humane and that there are adequate facilities for leisure and for social, religious and cultural life and that the health, safety and welfare of all persons in employment are safeguarded and not endangered or abused. Government policy is also required to ensure that there are adequate medical and health facilities for all persons and that there is equal pay for equal work without discrimination on account of sex, or on any other ground whatsoever. Also, section 18, of the same constitution is of the view that, Government is to ensure that there are equal and adequate educational opportunities at all levels and Government shall as and when practicable provide free, compulsory and universal primary education, free university education and free adult literacy programme. In the same vein, Section 21 states that cultural rights provides that the state shall protect, preserve and promote the Nigerian cultures which enhance human dignity and are consistent with the fundamental objectives provided for in the constitution. To this end, it is important to note that many of these rights are not cast in absolute terms. Permissible derogations are recognized in three situations provided for in section 45 are follows:

*Where the interest of defence, public safety, public order, public morality or public health so demands;*

*For the purpose of protecting the rights and freedom of other persons;*

*Where an Act of the Legislature curtails the right during a "period of emergency".*

A related concern for the human rights approach is the incompatibility between human rights, which are predicated on discrete individual entitlements, and collective rights, which confer indivisible privileges to social groups. Human rights are private, individual, and autonomous, meaning that they are inherent to all people and unmediated by social relations (Howard, 1995).

In addition, scholars have also paid attention to the important distinction between duty and entitlement within human rights discourse (Donnelly, 1982). In the general theory of rights, individuals' duties to society are an essential cornerstone of any rights-based regime (Howard, 1995). In the human rights thinking, however, because of the fact that the fulfillment of social obligations is not a precondition for having or exercising inherent human rights, the concomitant social duties of the individual have been greatly underemphasized (Howard, R.E. & Donnelly, 1986, Howard, 1995, Glendon, 2001, and Etzioni, 1993).

### **Paradigm Shift and Experience of Human Rights, Human Dignity in Nigeria**

Human rights thus go beyond the inherent dignity of the human person to provide mechanisms for realizing a life of dignity. Human rights both specify forms of life that are worthy of beings with inherent moral worth and provide legal and political practices to realize a life of dignity that vindicates the inherent worth of the human person. In other words, human rights insist that the inherent worth of human beings must not be left in an abstract philosophical or religious domain but rather must be expressed in everyday life through practices that respect and realize human rights.

For instance section 33 of the 1999 Constitution guarantees right to life in a widely qualified manner when it sets out in sub-section (2) four grounds upon which a person may lawfully be deprived of his life. Of particular concern is the provision which excuses and justifies deprivation of life in defence of property, in order to affect lawful arrest, or to prevent the escape of a person from lawful custody. By this provision therefore, a person who is accused of any offence no matter the nature may

be extra-judicially, yet lawfully killed in an attempt either to arrest him or prevent his escape from lawful custody. Similarly, a person may be justifiably killed in defence of property. The Constitution fails to define the quantum of property which will justify such killing. In any case, ascribing or placing the value of property over and above that of human life is preposterous. It is nothing but needless retention of the old common law dogma in twenty century legislation. A learned author has reasoned that “the exceptions erected by the Constitution to the right to life amounts to utter derogation there from (Obiagwu, 2003). Continuing, the learned author rightly queried that:

*Why should the police kill in defence of property? What kind of property is worth human life? For us, this is unduly protective of the capitalist ethos and is totally alien to African tradition. It could also provide a blank cheque for wanton killing by police who, on the grounds of protecting private or public property may kill. This insightful observation cannot be objectively discounted.*

The question is why people really take the law into their hands? The answer is that, citizens of countries have resulted in jungle justice when denied swift response of the security operatives to save people from crimes like threats, loss of life and properties, kidnapping, insurgency, arson, and lots more. This has become a major security problem in most developing countries.

A survey conducted by Noi-Poll in 2014 revealed that 51% of Nigerians, representing the majority, attribute the high prevalence of jungle justice in the country to a “lack of trust in the law enforcement agencies”. In addition, the majority of Nigerians (94%) affirm there is a high prevalence of jungle justice/mob attack in Nigeria and describes it as “a wicked and barbaric act”. More findings revealed that almost half of Nigerians (an alarming 43%) have personally witnessed these acts of jungle justice/mob attacks in their localities, while 16% have known the victims of jungle justice/mob attacks (Africa edition of the Global Corruption Barometer, based on Afrobarometer data, 2019).

Both Human rights and Human dignity were thus initially believed to be natural rights of every individual and as such, those rights had a distinct anthropological quality. In other words, basic human rights and fundamental freedom were determined by their author’s perception of the nature and essential characteristics of human person. The particular rights and freedoms that were thus thought to be natural concomitants of being human were identified by contemplating the condition of an individual person in a stateless society. This basically reflects the idea that state institutions of law and enforcement are dysfunctional and lack trust or confidence of citizens. Below are some the images of the victim of jungle justice in Nigeria:





Figure: 1

Source: <http://drumbeatnews.co.uk/nigeria-news/mob-attacks-3-robbery-suspects-in-benue-graphic-photos/attachment/jungle-justice-2/>



Figure: 2

Source: <https://youngafrikan.com/what-witnessing-jungle-justice-did-to-me/>



Figure: 3

Source: <https://www.sunnewsonline.com/jungle-justice-the-attraction-the-drawback/>



Figure: 4

Source: <https://www.nairaland.com/5207567/worst-case-jungle-justice>

In a nutshell, human right and human dignity brings rights and duties together and creates a stronger relationship between a human's basic worth and his or her proper obligations to society. The scope of human right human dignity thus permits giving serious attention to social duties embedded within a particular culture and group.

### 3. Conclusion

Against the foregoing, the paper concludes that however, human rights and human dignity have increasingly become fused. Although one can think of human dignity independently of human rights, which is becoming increasingly infrequent, as the prominence of human rights increases and the link between human rights and human dignity is increasingly seen as normative rather than accidental. Also, the paper is of the view that, drawing on a great variety of historical, cultural, and material resources, individual, groups and societies across the globe are actively grappling with the threats and opportunities provided by modern social life as they try, by claiming and practicing human rights, to make for themselves lives of dignity worthy of truly human beings.

### 4. Recommendations

*The Nigeria Police Force should establish a police-community trust relationship in their statutory roles of crime prevention and control in their promoting and maintaining law and order.*

*Governments should make sure that economic development projects (such as infrastructure or mining), help the most disadvantaged and do not lead to human rights abuses.*

*The public should not support any form of instant justice and always group themselves against any form of it at the arrest of a crime suspect.*

*Governments should sign and ratify the Optional Protocol to the Covenant on Economic, Social and Cultural Rights.*

*There should be sensitization or teaching no violence. One way to combat this phenomenon is to inculcate even in children, that brutality and unnecessary violence in any form is unacceptable.*

*Governments should guarantee all economic, social, and cultural rights without discrimination.*

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