

WETIN BE MY HUMAN RIGHT AND DEM FIT DASH ME OR COLLECT MY HUMAN RIGHT FROM ME?

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INTRODUCTION

The issue of human right has now become an international concern, particularly in this age and time that is ecclesiastically perceived to be the end time; where wars and rumours of wars are prevalent; where all forms of pervasions have become a norm; and where men have become lovers of themselves rather than of one another. In today's Nigerian society, the news of human right abuse is gradually becoming a norm and sadly, the issue, most often than not, is always swept under the carpet as swiftly as it meets the eyes of the media, with the perpetrators often being celebrated and promoted. On the part of the citizens and residents, it is sad to say that most persons are not even aware of their fundamental rights, thereby making it difficult to speak with confidence and seek redress when the said rights are violated or threatened. This chronic ignorance or nonchalance has birthed the attitude of letting things slide/letting things go.

It is very disheartening to say that the society, particularly the Nigerian society is summersaulting into a state of anarchy as we are faced with a situation and stark reality of: the barracks are no longer comfortable for soldiers and the police stations loathed by police officers. They all prefer the comforts of the streets and highways, mounting roadblocks and conducting stop and search on every tom, dick and harry without any reasonable cause, and in consequence, infringing on the fundamental rights of citizens and residents. Laudably, there is an outcry of failed institutions cum State because of the legal decadence and the high rate of unpunished impunity. This has made and is still making so many persons loose hope in the country, hence, the 'japa' syndrome. It is imperative to note that in the midst of all these, there are still a few good ones in the judiciary and other government institutions who are striving and fighting tooth and nail to ensure that justice is always done and seen to be done. We must acknowledge these facts and lend our voices at each given opportunity to speak against human right abuses and other kinds of legal impunity that plagues our dear country.

This paper seeks to draw the attention of the general public, particularly the Nigerian public to the existence of their fundamental rights, the fact that it is protected by law, how it can be enforced and the restrictions attached to each of these rights. Please, if you are one of those few, good and courageous person out there, who is not comfortable with the ills and human right abuses going on in Nigeria; speak up and let your voice be heard. No doubt, there will be times where we are powerless to injustice, but there must never be a time when we fail to protest against injustice.¹ Please, let us speak up against the ills of human right abuse, certainly, there is an ear that is listening and an eye that is watching. Speak up!

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¹ Lines by Lord Bartok from the movie *Last Knights*. Kazuaki Kiriya [2015] Grindstone Entertainment Group, Luka Productions and Czech Anglo Productions.

WETIN BE HUMAN RIGHT?

This is the innate, inalienable and natural right of every human. That is, it is a right that every human is born with and enjoys naturally. The primacy and fundamental nature of these rights are encapsulated in their universal acceptance and recognition. These human rights are otherwise called fundamental right, and they are enshrined in legal instruments which include: Universal Declaration of Human Right, United Nations Charter of Human and Peoples Right, African Charter on Human and Peoples Right, and in Nigeria, the Nigeria Constitution particularly Chapter IV. Mind you, the African Charter is also applicable and enforceable in Nigeria.² Also, the court is enjoined to take cognizance of other international human right instruments.³ Now, what are these fundamental rights?⁴

- Right to life.⁵
- Right to dignity of human person.⁶
- Right to personal liberty.⁷
- Right to fair hearing.⁸
- Right to private and family life.⁹
- Right to freedom of thought, conscience and religion.¹⁰
- Right to freedom of expression and press.¹¹
- Right to peaceful assembly and association.¹²
- Right to freedom of movement.¹³
- Right to freedom from discrimination.¹⁴
- Right to acquire and own immovable property.¹⁵

DEM FIT DASH ME HUMAN RIGHT?

As stated above, these rights are the innate rights of every human; as such, it cannot be given. Interestingly, in the 1980s, when Fela through his song¹⁶ decried the human right abuses, the situation in this country was not as bad as it is today. Fela emphasized: "Human rights na my property. Therefore, you can't dash me my property."¹⁷ Universally, these rights are jealously guarded by legal instruments and any infraction or perceived infraction is visited with severe consequences. In as much as these rights cannot be given, it is recognized and protected by legal instruments. Every human is born with: life, hence right to life; ability to

² See Item 3(a) of the Preamble to the Fundamental Right (Enforcement Procedure) Rules, 2009 which provides that "The Constitution, especially Chapter IV, as well as the African Charter, shall be expansively and purposely interpreted and applied, with a view to advancing the and realizing he rights and freedoms contained in them and affording the protections intended by them."

³ See Item 3(b) of the Preamble to the Fundamental Right (Enforcement Procedure) Rules, 2009.

⁴ These rights are contained in Sections 33 to 43 of the Constitution of the Federal Republic of Nigeria, 1999, as amended (CFRN).

⁵ Section 33 (CFRN).

⁶ Section 34 (CFRN).

⁷ Section 35 (CFRN).

⁸ Section 36 (CFRN).

⁹ Section 37 (CFRN).

¹⁰ Section 38 (CFRN).

¹¹ Section 39 (CFRN).

¹² Section 40 (CFRN).

¹³ Section 41 (CFRN).

¹⁴ Section 42 (CFRN).

¹⁵ Section 43 (CFRN).

¹⁶ Fela Kuti (1989) Beasts of no nation [song].

¹⁷ Op cit.

move, hence the right to freedom of movement and personal liberty; ability to speak, hence the right to freedom of expression, freedom of thoughts, conscience and religion, and fair hearing; ability to socialize, hence the right to peaceful assembly and socialization; self-worth, dignity and ego, hence the right to dignity of human person, privacy, right to freedom from discrimination, and right to acquire properties. These are natural rights or call it abilities that every human is born with and their concomitant recognized legal rights. It is for these reasons that I make bold to say that human right, though recognized and protected by law, cannot be given.

DEM FIT COLLECT MY HUMAN RIGHT?

In as much as the above fundamental rights cannot be given by government or anyone, it can be taken, deprived or restricted under certain circumstances provided by law. We will in summary provide certain detail of these right and the circumstances under which they can be taken away, deprived or restricted:

Right to life

In a plethora of cases, our courts have taken cognizance of the primacy of this right. Recently, the Court of Appeal held that “fundamental human rights matters are serious matters. Allegations of breach of right to life are much more serious. The first right is the right to life. It is the most precious gift on earth.”¹⁸

The Constitution provides 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 guilty in Nigeria.

Also, a person shall not be regarded as having been deprived of his life in contravention of section 33 CFRN, if he dies as a result of the use of, to such extent and in such circumstances as are permitted by law, of such force as is reasonably necessary:

- a. For the defence of any person from unlawful violence or for the defence of property;
- b. In order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- or
- c. For the purpose of suppressing a riot, insurrection or mutiny.

Right to dignity of human person

The right to dignity of human person, under Section 34 of the Constitution of the 1999 as amended is not a cloudy one and the Constitution is clear on what it entails.¹⁹ This right speaks clearly to the dignity and honour of a person. It is worthy of mention that honour is something that all men are born with. It cannot be taken from you, nor can it be granted.²⁰

It is the law that every person is entitled to respect for the dignity of his person; and accordingly, no person shall be subjected to torture or to inhuman or degrading treatment;

¹⁸ C.O.P Taraba State & Anor v. Dabo & Anor (2019) LPELR-47215(CA) per James Shehu Abiriyi, JCA (pp 20 - 20 paras d - e).

¹⁹ Omame v. NPF & Ors (2021) LPELR-54747(CA) per Uchechukwu Onyemenam, JCA (p 30 - 31 paras d - e).

²⁰ Lines by Commander Raiden from the movie *Last Knights*. Op cit.

no person shall be held in slavery or servitude; and no person shall be required to perform forced or compulsory labour.

However, a person can be required to carry out forced and compulsory labour if:

- a. It is an order of court;
- b. The person is a member of the armed/police force and its part his duties;
- c. The person has conscientious objections to service in the armed force and he is required to carry out other labour in place of such that he objects;
- d. The labour is required and is reasonably necessary in the event of an emergency or calamity threatening the life or well-being of the community;
- e. The labour or service forms part of normal communal or other civic obligations for the well-being of the community; compulsory national service in the armed forces of the Federation as may be prescribed by an Act of the National Assembly; compulsory National service which forms part of the education and training of citizens of Nigeria as may be prescribed by an Act of the National Assembly.

Right to personal liberty

Personal liberty connotes freedom and autonomy of movement at will without any hindrance or restraint; physical or otherwise and the right not to be subjected to any wrongful restraint, arrest or any other physical confinement whether in an enclosure or open space in a manner which does not accord with the law or admit any legal justification. It may also mean freedom to do what a person pleases within the ambit of the law without any hindrance or restraint.²¹

The Constitution provides that every person is entitled to his personal liberty and no person shall be deprived of such liberty except under the following circumstances:

- a. In execution of the sentence or order of a court in respect of a criminal offence of which he has been found guilty;
- b. By reason of his failure to comply with the order of a court or in order to secure the fulfilment of any obligation imposed upon him by law;
- c. For the purpose of bringing him before a court in execution of the order of a court or upon reasonable suspicion of his having committed a criminal offence, or to such extent as may be reasonably necessary to prevent his committing a criminal offence;
- d. In the case of a person who has not attained the age of eighteen years, for the purpose of his education or welfare;
- e. In the case of persons suffering from infectious or contagious disease, persons of unsound mind, persons addicted to drugs or alcohol or vagrants, for the purpose of their care or treatment or the protection of the community; or
- f. For the purpose of preventing the unlawful entry of any person into Nigeria or of effecting the expulsion, extradition or other lawful removal from Nigeria of any person or the taking of proceedings relating thereto: Provided that a person who is charged with an offence and who has been detained in lawful custody awaiting trial shall not continue to

²¹ Eziegbo & Anor v. ASCO Investment Ltd & Anor (2022) LPELR-56864(SC) per Mohammed Lawal Garba, JSC (p 10 - 10 Paras D - F).

be kept in such detention for a period longer than the maximum period of imprisonment prescribed for the offence.

Right to fair hearing.

Fair hearing is a judicial or administrative hearing conducted in accordance with due process.²² In other words, it means giving equal opportunities to the parties to be heard before a decision affecting them is taken. There are so many constituents of fair hearing which will be discussed in another paper.

The Constitution provides that in the determination of a person's 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.

Right to private and family life.

The privacy of citizens, their homes, correspondence, telephone conversations and telegraphic communications is hereby guaranteed and protected by the Constitution.

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 in private) to manifest and propagate his religion or belief in worship, teaching, practice and observance.

With regards to the private and family life and the right under this subhead, our courts have held that the sum total of the rights of privacy and of freedom of thought, conscience or religion which an individual has, put in a nutshell, is that an individual should be left alone to choose a course for his life, unless a clear and compelling overriding state interest justifies the contrary.²³

Right to freedom of expression and press.

The right to freedom of expression and the press, as recognized and guaranteed by law, is geared towards the safeguarding of the right of the citizen to impart and receive ideas and information as permitted by law. It therefore exist to protect the right to seek and receive information for the purpose of disseminating such information and ideas as well as the right to freely express opinions orally or through publications. The real essence of this right therefore, is to guarantee to each citizen the right within the purview of the law to express himself freely without unjustifiable interference.²⁴

²² See Dangote Gen. Textile Products Ltd & Ors v. Hascon Associates (Nig) Ltd & Anor (2013) LPELR-20665(SC) per Clara Bata Ogunbiyi, JSC (p 21 - 21 paras A - B) and The Blacks law Dictionary Ninth Edition at page 789.

²³ Agbakoba v. A.G Federation & Anor (2021) LPELR-55906(CA) per Onyekachi Aja Otisi, JCA (p 28 - 31 paras f - f).

²⁴ Shaibu & Ors v. Utomwen & Ors (2022) LPELR-58237(CA) per Biobele Abraham Georgewill, JCA (p 82 - 83 paras d - b).

The Constitution 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 right can be restricted where a law is made for the purpose of:

- a. Preventing the disclosure of information received in confidence, maintaining the authority and independence of courts or regulating telephony, wireless broadcasting, television or the exhibition of cinematograph films; or
- b. Imposing restrictions upon persons holding office under the Government of the Federation or of a State, members of the armed forces of the Federation or members of the Nigeria Police Force or other Government security services or agencies established by law.

Right to peaceful assembly and association.

Freedom of association is defined as a right to voluntarily associate or disassociate from a group. It broadly refers to the ability of associations to co-ordinate their activities and exercise control over their members without any form of interference from the state in the affairs of the association. In other sense, it can refer to a state's obligation in ensuring that there is a free, reasonable, and conducive atmosphere for the exercise of the right of association.²⁵

It is the law as provided by the Constitution 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: provided that the provisions of section 40 CFRN shall not derogate from the powers conferred by the Constitution on the Independent National Electoral Commission with respect to political parties to which that Commission does not accord recognition.

Right to freedom of movement.

On the importance of this right; very recently, the Supreme Court held that every right constituted under Chapter IV of the 1999 CFRN (as altered) derives its foundation from the right to freedom of movement. We are born to move and our right to move is a basic right which enables human beings forage for food and greener pastures to farm or feed our cattle. Thus, the right to move is intertwined with the right to life and liberty and freedom of movement.²⁶

The Constitution makes a clear provision 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 refused entry thereto or exit therefrom. It is however worthy of note that this right can be restricted where a law is made for the following purpose:

- a. Imposing restrictions on the residence or movement of any person who has committed or is reasonably suspected to have committed a criminal offence in order to prevent him from leaving Nigeria; or
- b. Providing for the removal of any person from Nigeria to any other country to:

²⁵ NUP v. INEC (2021) LPELR-58407(SC) per Helen Moronkeji Ogunwumiju, JSC (p 49 - 52 paras f - a).

²⁶ Abu v. State (2024) LPELR-62381(SC) per Helen Moronkeji Ogunwumiju, JSC (p 23 - 24 paras E - A).

- i. be tried outside Nigeria for any criminal offence, or
- ii. undergo imprisonment outside Nigeria in execution of the sentence of a court of law in respect of a criminal offence of which he has been found guilty: Provided that there is reciprocal agreement between Nigeria and such other country in relation to such matter.

Right to freedom from discrimination.

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 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
- Be accorded either expressly by, or in the practical application of, any law in force in Nigeria or any such executive or administrative action, 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 right can be restricted where a law is made for the purpose of imposing restrictions with respect to the appointment of any person to any office under the State or as a member of the armed forces of the Federation or member of the Nigeria Police Force or to an office in the service of a body corporate established directly by any law in force in Nigeria.

Right to acquire and own immovable property.

Subject to the provisions of this Constitution, every citizen of Nigeria shall have the right to acquire and own immovable property anywhere in Nigeria.

THE THINGS WEY FIT LIMIT OR BLOCK HUMAN RIGHTS

Generally, Section 45 (1 & 2) CFRN provides clearly that nothing in sections 37, 38, 39, 40 and 41 of the Constitution shall invalidate any law that is reasonably justifiable in a democratic society that is made in the interest of defence, public safety, public order, public morality or public health; or for the purpose of protecting the rights and freedom or other persons.

Also, an Act of the National Assembly shall not be invalidated by reason only that it provides for the taking, during periods of emergency, of measures that derogate from the provisions of section 33 or 35 of this Constitution; but no such measures shall be taken in pursuance of any such Act during any period of emergency save to the extent that those measures are reasonably justifiable for the purpose of dealing with the situation that exists during that period of emergency: provided that nothing in section 45 CFRN shall authorise any derogation from the provisions of section 33 of this Constitution, except in respect of death

resulting from acts of war or authorise any derogation from the provisions of section 36(8) of this Constitution.

WHICH COURT FIT ENFORCE OR MAKE MY HUMAN RIGHT HAPPEN?

The Constitution provides clearly that any person who alleges that any of the provisions of Chapter IV of the Constitution has been, is being or likely to be contravened in any State in relation to him, may apply to a High Court in that State for redress.²⁷ High Court means both the State and Federal High Courts.

CONCLUSION

The law is what provides and promotes the order we experience and perhaps enjoy, for without law, man will be no different from the animal. Yes, the rights identified above are natural rights which have been codified and protected by law. As such, they can be enforced when infringed on. Unfortunately, in most cases, the victims of human right abuse are not enlightened of their rights which is why they often slip into the quagmire of what to do.

I recommend that Chapter IV of the Constitution should be included in academic curriculum and thought to all students from Primary to tertiary education.

²⁷ Section 46 CFRN.