

COVID-19 PANDEMIC EXPERIENCE AND HUMAN RIGHTS PROTECTION IN NIGERIA

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Abstract

The usefulness of legal frameworks in the task of human rights protection remains a key subject amongst nations of the world. This article assessed the protection of human rights in the compulsion of the Covid-19 lock-down experience in Nigeria. It looked at the prevailing reality of human rights enforcement in Nigeria, how Covid-19 lock-down experience affected human rights protection and what government can do to avert future implications. Using secondary sources, the study found that issues of human rights never got protection as supposed during the Covid-19 experience in Nigeria. Marxist criminology was adopted in the analysis of variables within the context of the Nigerian society. In averting this challenge in the future, the study recommends respect for world protocols regarding human rights, overwhelming reform of the criminal justice architecture to suit global concern for human rights protection, evolve a deliberate emergency plan that conveniently tackles pandemic experiences, government should ignite massive awareness campaigns and enlightenment programmes on human rights issues as contained in the constitution and rekindle the spirit of patriotic consciousness and professionalism in public authorities.

Keywords: Covid-19, Criminal Justice Administration, Human rights, Fair hearing, Nigeria

Introduction

Human rights tend to have been one of those issues dominating the space of political and constitutional discourses in the world's recent history. In this regard, efforts at instituting legal frameworks for the advancement of human rights as well as the overall development of society appeared to be a known feature of man that has apparently differentiated him from other animal groups. This legal feature seems critical in the task of state order since it has some level of embracement by various constitutional jurisdictions across the globe. In the words of Philomena (2012, 117), "human rights are conceived as rights divinely given to every individual as claims or entitlements against the State". The United Nations through its Universal Declaration of Human Rights in 1948 categorized these rights to include: "the right to life, liberty and security of persons, the right to fair hearing, the right to freedom of thought, the right to conscience and religion, the right to freedom of expression and press and the right to freedom of movement, and the right from arbitrary arrest" (Olajide, 2007, p. 11). It was the need to reinforce the significance of these rights across countries that made the United Nations

to set aside 10th December of every year as Human Rights Day. The basis for this was also what warranted the African Union and Nigeria to establish the African Commission on Human and People's Rights and the Human Rights Commission in order to sensitize and raise consciousness on human rights in Africa and Nigeria respectively.

Despite these efforts, Nigeria in recent history appeared to have encountered series of incidences relating to abuses of the rights of humans as characterized by the history of military rule and dictatorship that went for over thirty years, police brutality, political assassination, jungle justice, high cost of justice, abuse of office by political actors and more recently the Covid-19 lockdown experience and the EndSARS protest. The United Nations and Commonwealth Human Rights Repartees also in various times documented gross violation of human rights in the form of denial of press freedom, secret trial, detention without trial and execution in Nigeria. Departing from the notorious tradition of keeping convicts on the death row for many years, the popular hanging of nine Ogoni youth leaders hurriedly done two days after the confirmation of the death sentence imposed on them was also classical to issues of human rights abuse in Nigeria.

In the wake of the Covid-19 pandemic, issues of human rights abuse became even more entrenched and pronounced as many leaders across the globe are taking advantage of efforts against the Covid-19 pandemic to introduce restraining laws, some of which appeared to be self-serving against the citizens. For instance, Hungary passed the "Omnipotence" law at the behest of the Prime Minister, Victor Orban, giving him power to rule by decree without parliamentary approval (Rahman& Bahar,2020). The Prime Minister of Britain toed that path until he got the rebuke of the Supreme Court judge, Lord Sumption for putting the fight against Covid-19 too necessary than following apparent legal basis in the country (Rahman& Bahar,2020). Following the confirmed case of Covid-19 in Lagos, Nigeria on 27th February, 2019, President Muhammadu Buhari ordered the lockdown of Lagos, Ogun and Abuja in March 29th, 2020 by invoking the Quarantine Act of 1926, which never gave security operatives the right to violate human rights while enforcing the lockdown orders as released by Nigeria Centre for Disease Control (NCDC, 2020).

Actually, the constitution only allows government to infringe on people's rights either by declaring a state of emergency or introducing a federal statute, both of which require the approval of the National Assembly. most of the powers being exercised by Nigerian government in the course of the Covid-19 lockdown action violated the human rights of citizens because they had no constitutional basis. Also, the lockdown experience in Nigeria was like a double punishment for majority of citizens whose sources of livelihood are arguably from daily earnings. Thus, imposing a lockdown without a state of emergency or proper statutory procedure during the Coronavirus lockdown could suggest a violation of the rule of law which connotes an infringement on human rights of citizens. Such handling also leaves an impression that the tenets of human rights as contain in the section 14, 20, 33 and 46, of 1999 Constitution as amended were rather more on paper than in practice. In reaction to the aforesaid, this study attempts to examine human rights protection during the Covid-19 pandemic experience in Nigeria with a view to charting the way forward.

The Covid-19 Pandemic

Covid-19 which is also referred to as Coronavirus is an intense breathing symptom of whom the outbreak was first recorded in Wuhan, China on 31st December, 2019 and made public as a world pandemic on 11th march, 2020 by the World Health Organization (WHO, 2020). WHO

also noted that the virus has been “SARS-Cov-2”, the disease that resulted into what is referred to as “coronavirus disease 2019”. Clinical presentation of the scourge has been proven to contain fever, fatigue, dry cough, malaise and respiratory trouble. The contagious virus started its destructive effect in Wuhan, Hubei province, China and later spread across the globe with exception of the Antarctica which had some sort of exemption. The upsurge of Covid-19 gradually grew and became a global health hazard whose impacts occasioned the closure of virtually all public areas, stopping of all mediums of movements and the isolation and treatment of people who contacted it, with a view of controlling its proliferation across the world. So far the pandemic has been characterized by extreme morbidity as well as death rates side by side with certain sicknesses.

Prior to the WHO pronouncement of covid-19 as a world health problem, several people in Nigeria had erroneous perception of the disease as some sort of distant white man’s infirmity that never stretch to their dwelling places. Without recourse to expert protocols, the emergence of Covid-19 was downplayed or not taken serious by Nigerians and the government of Nigeria hence causing delay to the admission of early mediums of prevention that could have hindered the spread to the country. Following the first index case recorded in Lagos, on February 20, 2020, some areas in Nigeria went on with their usual activities and social movements with no recourse to the prescribed mediums of prevention earlier figured out by the Nigeria Centre for Disease Control (Reuben, 2020). The general view within the country was that Covid-19 is an “elitist related ailment” (i.e disease that is only contacted by rich people). This sort of perception could be connected to the low level of education in the country and so could not have been a different inference of how vulnerable the country became as a result of the disease. Government’s lack of ability to maintain the social distancing principle and not issuing prohibition order early enough on large physical meetings like religious and cultural gatherings, weddings and sport may have definitely created and hastened the Covid-19 super spreading scenarios in the country.

The Concept of Human Rights

A discussion on human rights is often incomplete without a mention of the classical Greek period, a period when the development of human rights idea was facilitated by the natural law theories during the 17th century middle ages and the post World War II period. Philosophers like Cicero, Plato and Aristotle hitherto argued that human beings by nature possess certain inalienable rights ordained by God that human laws must recognise and respect as ordained by natural reason (Erenest, 2014). The root concern of this assertion was further enhanced by the philosophical concept of great thinkers such as John Locke of England, Jean Jacques Rousseau of France, Thomas Jefferson of the United States of America, Karl Marx of Germany and V.I. Lenin of Russia. The outcome can be said to be the issuance of the Magna Carta in England in 1215, the adoption of the Declaration of Independence by the representatives of the North American colonies in 1776, the adoption of the Declaration of the Right of Man and of the Citizens by the National Assembly of France in 1798 and the publication of the Communist Manifesto in 1848 (Olajide, 2007).

In Nigeria, there has been sustained struggle for the protection of the rights of individuals, groups and communities beginning from the pre-independence constitutional conferences, through the First and Second Republic regimes and the various military dispensations, to the present democratic government. The Willink Commission and the Oputa Panel were eloquent testimonies of concerted efforts on human rights in the country, even

though Oputa Panel in particular was not released for public knowledge in the country. Beyond these past struggles, Nigeria is not only a signatory to the Universal Declaration on Human Rights of 1948 and African Commission on Human and People's Rights but has stepped down these efforts by establishing the National Human Rights Commission to ensure that citizens' rights are protected and not toyed with at any time.

In Nigeria, Constitutional standpoints on human rights infraction that concerns extra-judicial killings, spelled it out on implication of this kind of breach when the need arises. A careful study of section 33(1) of the constitution of Nigeria of 1999 as amended also buttressed the scope of the law as follows: *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.* The study of Howard (1983) as cited in Illah and Douglas (2015) considered to human rights as those rights possessed by individuals as claims or entitlements against the State. In this light, human rights are solely bothered on the protective survival and decent living standard of people associated with democratic cultures across the world. The United Nations through its Universal Declaration on Human Rights in 1948 categorized these rights thus: "the right to life, liberty and security of persons, the right to fair hearing, the right to freedom of thought, the right to conscience and religion, the right to freedom of expression and press and the right to freedom of movement, and the right from arbitrary arrest" (Olajide, 2007, p. 11). As highlighted by the author, these rights are indeed, deserving of human often exercised as either civil or political rights but the main goal is to ensure freedom from fear and the promotion of freedom, justice and peace in the world.

Concept of Fair Hearing

The concept of fair hearing appeared to be a cardinal tool in any discourse of human rights protection. As critical as it is, the place of fair hearing in the protection of human rights tend to have been fractured during the Covid-19 lockdown order. There were rarely appropriate measures in place to hear the position of citizens on how the lockdown orders are effected and whether those are in the best interest of the nation. Thus, subjecting human beings to unnecessary condition without an all-inclusive decision making process practically infringes people's rights to fair hearing as a basic requirement for human social existence. According to Yakubu (2000), the concept of fair hearing owned its origin to man's inherent notion of what is fair and just. As cited in Illah and Ajeh (2019), John Locke (1632-1704) postulated that God created man and endowed him with reason and this reason has distinguished man from other animals and enables him to know good from evil. This implies that, the notion of fair hearing has a normative prescription which requires that every adjudication must satisfy a case for its validity. Thus, the right to be heard whether in an emergency or dispute condition has been an obvious and undeniable characteristic of man from creation and societies with such democratic direction seem to have embraced it over the years.

Before the advent of colonial administration which may have brought in its wake British-type courts into Nigeria, the traditional society was ruled by kings and their councils who administered justice according to their notion of what was considered as just. This was how the rule of natural justice entered Nigeria as a colonial heritage and embraced as a common law of England since the 1960 Constitution. Attesting to this view, Karibi-Whyte (2000) in Yakubu (2000) averred that there were several universal principles of ancient origin common to mankind. The author recognized these principles as divine principles that are held in high esteem by the ancient Greeks and Romans. In Africa, it is also considered as part of the

indigenous culture and philosophy of justice (Soloke 1999 cited in Yakubu, 2000). In America, the principle of natural justice is a cardinal portion since the doctrine of fair hearing is accommodated in the “*due process*” clause of the American Constitution. As stated earlier, the rule of natural justice entered Nigeria as a colonial heritage and embraced as a common law of England since the 1960 Constitution. Thus, for human rights to be considered as substantive in the wake of Covid-19, the administration of health guidelines on the scourge must conform with the universal dictates of the right to be overly protected as enshrined in the two-legged principles of natural justice (*audialterampartem and nemojudex in causasua*) that is one should be allowed to say his side of the story in a case, and one should not be a judge over his own cause.

Theoretical Orientation

Marxist criminology also called the critical criminology is one of the new brands of criminological theories known for its explanation of crime through the prism of Marxism. It is influenced by the ideas of Karl Marx and Friedrich Engels as espoused in the German ideology (Marx & Angels, 1947) and the Communist Manifesto (Marx & Angels, 1930). Marxist criminology developed out of conflict theory and concerned the circumstances of unveiled social conditions of discrimination and economic inequality marked by the American society in the 1960s.

The main argument of this theory is that the understanding of crime lies in the material basis of society; the capitalist society is characterized by inequality in power and wealth and these lie at the root cause of crime. It held that crime emerges as a result of the struggle for resources in capitalism and that the radical transformation from capitalist to socialist society is the ultimate panacea to crime. Marx began with the notion that economic need is the basis for all societal dynamics and that the manner in which a society is able to pursue its economic need indicates the super-structure of that society. The super-structure Marx argued is reflected in the sub-units that make up the society such as family, health, education, military, law and justice, politics, religion, whereas the sub-structure forms the economic base of society and this economic base represents the bedrock of the super-structural operation of society.

The applicability of this theory to this study lies on the notion that, the law will be anything to go by when the tendency to be law abiding is not assumed outside the material conditions of society. In this wise, the Nigerian government and its relevant authorities must be conscious of the fact that when the right to have protection becomes a thing of struggle between those that give this right and those that are given the right, the result will be human rights abuse as was the case during the Covid-19 lockdown. In Marxist sense, the super-structure which the law institution is a sub-unit is contingent on the working of the infrastructure and when the super-structure of human rights protection is characterized by torture, inhuman or degrading treatment, systematic beatings, wad-hangings, punching, kicking and striking with rifle butts and jumping on people’s stomach, being tied or forced to assume fixed and stressful bodily positions, harmful exposure to sunlight and unjust killing of innocent Nigerians as exhibited by the law enforcement agencies during the lockdown orders was an abuse of citizens’ rights as contain in the Constitution. Therefore, the right to life and freedom of movement which are cardinal principles of natural justice are hardly achieved when human rights are trampled upon as was exhibited during the Covid-19 lockdown in Nigeria.

The Covid-19 Lockdown Implications in Nigeria

Human rights dimension

Efforts to enforce restrictions on movement in Nigeria during the Coronavirus pandemic tend to have sprung up massive abuses of rights of humans carried out by the law enforcement officers, which are known for abusing instead of defending civilians in Nigeria. The precautions adopted to prevent the spread of Covid-19 took a toll on the people of Nigeria particularly by the disposition of Nigeria Police Force in imposing the avoidance of gatherings otherwise known as social distancing and the sit-at-home order by the president. The extreme prescription put in practice by the agencies saddled with the responsibility of compelling the lockdown led to the demise of 18 persons in Nigeria. These people are greater in number compared to the people dead as a result of the fearful Coronavirus as at 16th April 2020 (Ezeigwe, 2021).

Consequently, individuals running into millions in Nigeria tend to have been released from where they work as a result of the comprehensive lockdown of commercial enterprises. Furthermore, anxiety over the effect of such preventive method on the rights of people was observed by the United Nation High Commissioner for Human Rights as well as people who are knowledgeable about human rights. For instance, National Human Rights Commission of Nigeria (NHRC) supposedly accepted 105 accusations of infraction of rights versus officers of enforcing laws around that time (Oyeyemi, 2020). During the time, before its involvement in compelling the lockdown command, unruly abuses of people's rights have been pointed out as a key defect of the police. Such kind of worry have no strong foundation, as means preventing the condition of enjoying rights and the war rhetoric that accompanied those ones opened the channel to the improper treatment of immediate regulations and the over reach of executive authority. On the other hand, the various forms of torture meted out during the lockdown include assault, maltreatment of people with intend to cause pain, depletion, dysfunction of certain body parts. Also, the torture was accompanied by planned beating, punching, kicking, stepping on one's stomach, forcefully having sex without consent, sexual improper treatment as well as injurious unprotected display of one under sunlight and severe cold (Omilana, 2020). According to Ezeigwe (2021), the total act of imposing regulation demanding people to stay off the streets equally gave rise to certain worries, among which include indiscriminate killing perpetrated by the police Force.

The police Act clearly made room for the responsibilities of police to the people. Section 4 of it spelled out the following;

- (a) Stop and discover crimes, and keep safe the rights and the state of being free of every individual in Nigeria as stated in the constitution, the African Charter on Human and peoples Rights and any other law.
- (b) Preserve public safety, law and order.
- (c) Keep safe the lives and property of all in Nigeria.

From the above provision, the duties and restricted authority police can perform any time they are on duty are captured clearly. Also, indiscriminate killing and other inhuman and bizarre manner of treating people make up an offence under the Anti-Torture Act 2017. Nigeria police Act, 2020, Criminal Code Act and Penal Code of Nigeria. At the moment, there seems to be no record of prosecution regarding the police officers alleged to have engaged in the abuse of rights of humans at the time of covid-19 lockdown compulsion. On the other hand, the body language of the government on

such matter appeared to indirectly pass a false notion to the people on the disposition of life of humans, supremacy of the law and its imposition.

At this juncture, it is important to state that lack of efficiency of the government to do something good to those who suffered from indiscriminate killings and maltreatment of people due to the execution of the order to stay at home (coronavirus lockdown) given by the government carried out by the police has completely placed the police on the negative angle of the law.

Economic rights dimension

Economically, the global stock markets removed almost US\$6 trillion in material possessions in few weeks and the circulation of the virus which motivate physical distancing resulted in the closing of financial markets, corporations, commercial enterprises as well as social activities Internet World Statistics (IWS,2020). Many governments in nations that are advanced like the United States and United Kingdom helped out through provision of fiscal stimulus package that has to do with social support services to individuals while the monetary bodies gave out loans to assist commercial enterprises at the time of the pandemic (Vigdor, 2020). Spillovers to inferior nations with comatose health facilities and absence of known social assistance programmes were also present. In Nigeria, the public has weak facilities and services like weak immediate assistance, minimal ambulances practice, incompetent national health insurance composition, inadequate primary health care facilities, and these challenges in the public health area have been connected to the very elevated maternal and child death rates in Nigeria (Makoni, 2020; Ioannidis, 2020).

Prior to the emergence of the Covid-19, Nigeria was already having a poor and not developed digital economy, It was hard to identify a university or school that do classes online from beginning to end. Majority of commercial activities which include banks and technological enterprise functioned through the traditional ‘come-to-the office-to-work’ method in contrast with the ‘working-from-home’ method. The outburst of the novel Coronavirus ushered in problems to the commercial arena in the country (Omilana, 2020). The functioning of these markets and industries would have suffered in a minimal level assuming there was a great digital operation facility. Telecommunication services, bank transfers and the use of internets were the only services in operation through the already present digital infrastructure at the time of the Covid-19 outbreak. For example, schools, universities as well as educators cannot do coursework via digital means in order for students who were at home not to lose from important areas of their studies. E-commerce usage that gives room for online commercial activities to make those who buy and sell to go on with their buying and selling as they stay at home was out of place in Nigeria. These are feasible in a situation where there is strong and effective digital communication system.

Health rights dimension

Presently, Nigeria has a two-tiered health care system operating considerable public healthcare sector and a little private healthcare sector. In comparison with the nations that are advanced, many of the country’s healthcare expenditure is majorly controlled by out-of-pocket spending which result in 70% of complete health expenses (Ezeigwe, 2021). This shows that many people in Nigeria either do not depend on the health insurance systems in Nigeria or they are not aware of the existence of it. In spite of the establishment of National Health Insurance Scheme (NHIS) in 2004, the number reached by the scheme in 2009 stood at about 5% of the entire number of people of the country (Adejero, 2020). Places to keep people away were also

not enough in several states in the country, so is also the case in Abuja and Lagos. In the view of Ezeigwe (2020), the percentage of people infected in Lagos recorded so bad to the level where a stadium had to be made to be a place to keep people away. In the end, the covid-19 outburst tends to overwhelm the terrible public health facilities in the country

Welfare rights dimension

Before the emergence and spread of Covid-19, pronounced societal challenges existed in the country, these include armed robbery, divorce, child trafficking, health challenges, and challenge of single parenting without a serious social support policy as well as programmes to solve them. Currently, social support movements in the country seem not advanced, not founded properly and not available to many people that need them (Oyeyemi, 2020). Nigeria has no national social support policies that give help to people and any family in need like health care support, food stamps, help for being unemployed, disaster and help for education. The implication of the absence of national social welfare programme was obvious at the time of the coronavirus emergence. At the time of the outbreak, individuals had just small to hope on, people who are poor do not have support to relief them which could assist in coping with the difficulty of the period. Housing subsidies was absent, utilities and energy subsidies were also absent. No help for other important things to people that suffered more as a result of the coronavirus spread. Arguments are on as to the importance of the use of social support programmes to address poverty and to assist people to bear the hardship. Those in support of social welfare theory made available so many theoretical standpoints on ways social welfare could be structured to address the key problems of individuals (Memish, 2020).

As at then, providing social welfare services to people in need was the best means to safeguard them from difficulties in terrible situations (Omilana, 2020). Thus, the absence of this kind of support for those in need, families and those in difficulty as at the time of the outbreak in the country resulted in serious difficulty and hardship to families and people considered poor. The sad result is that there is no social welfare national scheme in Nigeria not to talk of policy priority by policy makers. That was what was exposed during the lockdown experience in the country.

Methodology

The qualitative research method which involves the use of secondary data accessible from text books, journals, literature, and internet material was used to generate the information used in the entire work. Since this is an opinion study, this method was found useful because it enables in-depth analysis of issues within the range of documented data sources often understood in the context of their production.

Key findings of the study

Research of this nature is often with an expectation of generating findings that could attract policy implications recommendable to government and other statutory organs. In the light of the above, the following were found in the study. Revelations showed that there was general human rights violation during the Covid-19 lockdown experience by government and its law enforcement organs in Nigeria. This was reflected in inadequate or lack of clear-cut legislative template for handling global emergencies in the country.

Key findings on the economy indicated that prior to the spread of covid-19, Nigeria digital economy from onset was not viable and not developed so it was difficult to point out any

learning institution that teaches her courses outlines online from beginning to the end. Many commercial activities like banking and technological industries were also found to be operating the analog ‘come-to-the-office-to-work’ method in contrast with the ‘working from-home’ method. Another finding revealed a situation of near or complete absence of a social welfare scheme in overcoming global related emergencies in Nigeria. It further revealed that social welfare services in Nigeria is not developed, not properly provided with funds and not available to many of the people that need them. Another outcome indicates that the country is operating a two-tiered healthcare method whether government owned or private with the majority of them dominated by out-of-pocket expenditure.

Conclusion

Maltreatment of people has been a challenge and a major human rights problem in Nigeria during the lockdown experience. Even more, the existence of indiscriminate killings in Nigeria current history seems to have drastically taken an upward swing. The majority of human rights abuses during the lockdown were established to have gone without investigation and not punished. The relatives of those who suffered abuses had no recourse to justice or redress. Most times some do not even border to inquire what really happened to their relatives. This study analysed how Covid-19 incident hindered the promotion of human rights in the country. It equally showed the numerous issues bedeviling the attainment of the revered essence of human social existence. Some of these issues are substantive and some procedural.

The issue has been stressed that certain constitutional provisions that are targeted towards making sure human rights are protected were also faced with unintentional implication of outright violation, excessive time wasting and as a result corruption. Also established is a fragile and helpful equilibrium between the willingness to maximize human rights protection as well as the importance of promoting the protection of human life at the wake of corona virus hazard in Nigeria. This cries for well-reasoned plan that recognizes these factors and thought process to promote the realization and observance of human rights. The overwhelming interest for enhanced means of promoting life protection in the country will be achieved and important human rights given their rightful position in the plan of things only if we approach the issue along human rights perspective.

Recommendations

In the light of the preceding revelations made and the conclusions drawn, the following recommendations were put forward for policy consideration.

- i. There is need for an overwhelming reform of the criminal justice architecture to suit global concern for human rights protection in Nigeria.
- ii. Government at all levels should draft and evolve legislation backing citizens’ right to social security scheme during pandemic.
- iii. Government at all levels should ignite massive awareness campaigns and enlightenment programmes on human rights issues as contained in the constitution,
- iv. Government should put in place the required facilities in hospitals and evolve deliberate health emergency plan that conveniently tackles pandemic experiences in the future.
- v. Government institutions are enjoined to follow due respect for world protocols regarding human rights, so as to rekindle the spirit of patriotic consciousness and citizens’ confidence in public authorities.

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