

**AN APPRAISAL OF HOW AND TO WHAT EXTENT CORRUPTION IN
OUR SOCIETY / GOVERNMENT INSTITUTIONS HAS CONTRIBUTED
TO THE VIOLATIONS OF HUMAN RIGHTS.**

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Human rights are basically those rights that every person enjoys. These rights attach to the person at birth. These rights are available irrespective of one's sex, nationality, origin, colour, religion or language.

According to Ajumo, MA, in his essay on 'the development of individual rights in constitutional History' published in 1993-in a book titled Individual Rights under the 1989 constitution

'The main reason for individuals coming together to form government is to enable these rights to be protected'.

Under the United Nations Charter on Universal Declarations on Human Rights, human rights encompass of all the rights that are contained in the charter. Most human rights in most of the countries of the world derived from the United Nations charter and other human rights instruments from appropriate continental bodies like European Conventions on Human Rights. In the case of Nigeria, the human rights are a product of the United Nations Charter and the British Bills of rights.

The United Nations places a lot of importance on the observance and the implementation of the said charter that it states in one of the preamble in the charter its commitment towards implementation of the content of the charter thus: -

'whereas the peoples of the United Nations have in this charter reaffirmed their faith in the fundamental human rights, in the dignity and worth of human person and in equal rights of men and women, have determined to promote social and better standard of life in larger freedom.'

It is this United Nations Charter that has prescribed these inalienable rights that have accrued to humans generally who resides within a geographical entity.

In Nigeria, human rights are contained in basically two chapters of the 1999 Constitution as amended. These rights are contained in Chapters two and four of the constitution, the ones that contained in Chapter two of the constitution are those referred to as 'the Fundamental Objectives and Directive Principle of State Policy.'

Section 13 of Chapter two captures the essence of the duties and responsibilities of government towards its citizens whether the government is the federal, state or local and also whether it be Executive, Legislative or the Judiciary. It is the main policy trust of the Nigerian government. The chapter states thus: -

'It shall be the duty and responsibility of all organs of government, and all authorities and persons, exercising legislative, executive or judicial powers to conform to, observe and apply the provision of this chapter of the constitution.'

A cursory look at the provisions of chapter two of the 1999 Constitution shows that the provisions are broadly divided into the following components,

- a) The government and the people
- b) Political objectives
- c) Economic objectives
- d) Social objectives
- e) Educational objectives
- f) Foreign policy objectives
- g) Environmental objectives
- h) Nigerian cultures
- i) Obligation of the mass media
- j) National ethics, and
- k) Duties of the citizens

These are broad objectives of the Nigerian policy which governments at all levels are expected to channel resources for maximum benefit of the citizenry. Even though these rights are not justiciable as provided by the same constitution, the judicious use of resources to those areas will greatly impact on the lives of the citizens.

The other rights which affect the citizens in their individual capacities and referred to as fundamental rights are contained in chapter 4 of the constitution. These rights include: -

- a) the right to life – section 33
- b) the right to dignity of human person – section 34
- c) the right to personal liberty – section 35
- d) the right to fair hearing -- section 36
- e) the right to private and family life – section 37
- f) the right to freedom of thought, conscience and religion- section 38
- g) the right of freedom of expression and the press – section 39
- h) the right to peaceful assembly and association – section 40
- i) the right to freedom of movement – section 41
- j) the right to acquire and own immovable property anywhere in Nigeria

It is also important to define corruption as one of the major component of our discussion and relate its effect on human rights in Nigeria.

Corruption has been defined by Wikipedia as a

‘form of dishonest or criminal offence which is undertaken by a person or an organisation which is entrusted with a position of authority in order **to acquire illicit benefits or abused power** for one’s gain.’

It is generally an erosion or abuse of the fundamental societal and institutional values for the benefit of personal or sectional interest and to the detriment of the general public good.

Corruption and crime are sociological vices that have regularity in frequency in almost all the all the societies of the world with either little or gross consequences on the economy and developmental indices of nations. It manifests at different scales and levels with devastating consequences. It is an antidote to development.

Corruption in Nigeria can be approached from different perspectives. In this discuss corruption would be viewed from the economy angle. This is more so as the economy drives the process of development. Corruption in the economy simply means that government programmes across the divide would become difficult to implement. It is as a result of the high level of corruption that the present administration of Muhammadu Buhari used the fight against corruption as a campaign slogan. In 2012 it was estimated that Nigeria lost the sum of over \$400 Billion dollars to corruption. (daily post Nigeria retrieved 2/7/2016).

In 2018, the vanguard online reported the then acting chairman of the EFCC as reported that his commission recovered some looted proceeds for some three years that was from 2015 to 2018 when he was in charge. He gave the breakdown as follows: - over 794 billion naira, Over 261m dollars, 1,115,930. 47 pounds, 8,168 871.13 Euros and 86,871CFA. Over 407 houses were recovered either through interim or final forfeiture by courts. There were also convictions by the various courts across the country.

It is also worthy of note that as recently as the 21/10/2021, the inter - ministerial committee (IMC) on the disposal of the Federal Government forfeited assets published the list of the said forfeited assets. The point to be made out from the money and assets said to be recovered showed the effect of corruption on the system and the effect on failure of Government at various levels to ensure that there are strong institutions that would impede this massive corruption and its negative impact on the rights of the citizens.

It is also important to look at some notable past sub national chief executives who were convicted for gross mismanagement of the resources of their states which had affected what we commonly call the failure of the said governors to deliver the dividend of democracy to their citizens.

Governor Dariye of Plateau State was convicted for embezzling the sum of over a billion naira while he was serving as the governor of Plateau state from 1999 to 2007" while governor Jolly Nyame was also convicted for diverting over a billion naira, money belonging to the Taraba state government and people. Also very recently the sum of recently, the Faisal Maina the son of former Pension administration boss was convicted and sentenced to a 14 years' jail term for in for money laundry.

The above are in addition to those individuals who are currently standing trial for actively participating in the looting of the nation's resources. The essence of my reference to the above named convictions is to bring to the fore the effect that this massive and high level corruption had resulted in the failure of these Nigerians to deliver the much needed dividend as provided for under chapter 2 of the 1999 constitution. This corruption and many more that have not come to light are factors that have affected the observance and implementation of the human rights of Nigerians in relation to the provisions of chapter two of the 1999 Constitution.

It is also important to state that the provisions of chapter 4 of the constitution has also been massively abused by our security agencies. There are several fundamental rights that the constitution has provided for the observance of government and individual. It is important to state that section 34 and 35 are the most abused.

In the most celebrated case of Alhaja Abibatu Mogaji V Board of Custom and Excise and anor (1982) 3NCLR P 552 at 561 -562, where the court held that

‘every individual is entitled to respect for the dignity of his person and accordingly no person shall be subject to torture or to inhuman treatment’ In the light of this provision and my finding of facts I consider that the plaintiff are entitled to a declaratory order, is my view that to organise a raid with the use of guns, horse whip, tear gas to make arbitrary seizure of goods without due inquiry and proof as to their origin , and also to strike or otherwise injure custodians of such goods amounts to inhuman and degrading treatment,

From my introduction as to what corruption is, I pointed out corruption must not be viewed only from financial corruption only but reference must be made to institutional abuse of processes by our security officials and agents of government. Section 34 provides that ‘every person is entitled to respect for the dignity of his human person, and accordingly: -

a). no person shall be subjected to torture or to inhuman and degrading treatment,

b).....

Violation of constitutionally guaranteed fundamental rights by the police and other law enforcement agents are daily occurrences in this country. Many of these suspects that have been arrested are kept in such deplorable and dehumanizing conditions in the cell of the security agencies. The excuse being advanced most of the time by these security outfits is that such suspects are kept there in order to facilitate investigation as their release without completion of investigation would interfere with the investigation of their cases.

Under this provision, persons who were subjected to various forms of inhuman and degrading treatment could initiate proceedings under section 46 of the constitution for redress. The process of the prosecution of acts of torture under the Fundamental Human Rights Enforcement Procedure Rules provides for the protection of the rights of those affected by the acts of torture

The persistent abuse of the section 34 of the constitution and the failure of the authorities to check the abuse had led to the promulgation of the of the Anti- Torture Act 2017 and the Violence Against Persons Protection Act [VAPP Act] 2015 which are aimed at strengthening the provisions of section 34 of the 1999 constitution.

The Anti-Torture Act recognizes and acknowledges that acts of torture are largely committed by government agencies tasked with investigation.

Section 3 of the Anti – Torture Act prohibits all forms of torture whether or not the country is in a state of war and internal political instability. The Act also recognises that torture can also be as a result of the type of facility provided. It Outlaws completely, injury by security personnel in the course of the investigation. It therefore ensures that the provision section 34 of the evidence act is fortified ensuring that all confession /admission that are obtained as a result of torture, if established, shall not be admitted into evidence. The Act provides thus:

“ Any confession or admission or statement obtained as a result of torture shall not be invoked as evidence in proceedings, except against a person accused of as evidence that the confession, admission or statement was made”

The Anti Torture Act is expected to act as a check of the activities of our security personnel. The fundamental question, however, is how many Nigerians are aware of the existence of the Anti-Torture Act and the remedies it provides for them in the event of their having come in conflict with the law. Not many Nigerians are aware of this law and the content of the law as it relates to them. It is therefore very difficult for a greater number of victims of torture to access its content and take advantage of it.

The security agents may also not be aware of the content of the law as it affects them in relation to the performance of their duty. They

may however be aware of the need to ensure that suspects arrested are treated with decorum and the places of detention are habitable.

The implementation of the Anti-Torture – Act will remarkably ensure change in the way that security agents treat persons suspected and/or arrested for allegedly committing an offence. There is fundamental need for sensitization of the security agencies on the content of the law. The need to have the security agencies educated on the provisions of the Act as provided for under section 10 will reduce the arbitrariness relative to arrest and detention by the security agencies. When they are aware of the importance of the Act including their duties and punishment, it will check the abuse of the exercise of power by the agencies concerned.

Also there is the need for extensive awareness campaign among the citizenry. It is only when the citizens are aware of their rights under the Act that they can take advantage of the provisions therein. The Legal Aid Council, as the main pro bono service will also in the course of the implementation of the provision of the Legal Aid Act ensure that the provisions of the Anti-Torture Act are complied with.

“Section 19(1) the Council shall from time to time conduct inspection of the prisons, police cells and other places where suspected persons are held in order to assess the circumstance under which such persons are detained.”

This Section in conjunction with the operation of the provision of section 34 of Administration of Criminal Justice Act 2015 will remove the torture associated with detention facilities as provided by the Act.

Section 8 of the Anti-Torture Act provides punishment for the breach of the provision of the Act. It provides for a punishment of 25 years in prison for any one that commits the act of torture. If the torture results in deaths, the punishment is one that is punishable with death.

It is hoped that with the criminalization of the act of torture by the Anti-Torture Act, the action of torture among our security agencies at all level will be eliminated.

EFFECT OF CORRUPTION ON HUMAN RIGHTS.

The effect of corruption in the country is very massive. It affects all the ramifications of the Nigerian society and in particular

- A. the infrastructure like the road network which have massively affected thus impacting on the movement of goods and services and affecting further the economic.
- B. Unemployment.
- C. Poor health facilities across the country as a result of corruption. The presidential clinic is an example of the effect of corruption on the health sector.
- D. Agricultural failure. Corruption has affected food production and supply chain across the nation. Agricultural incentives meant for the farmers hardly get to them resulting in large scale crop failure leading to food shortages.
- E. Electricity sector is also affected by the systemic corruption in the country. This corruption has affected steady power across the nation as a whole.
- F. Education. Dilapidated classrooms and other structures within the school systems.

ENFORCEMENT FOR BREACH.

Under the 1999 constitution as amended breach of any of the provision of Chapter two of the constitution is not justiciable. But one is gladdened with the decisions of the courts in which they have stood firm on the side of the people that failures of state functionaries to performed in line with the provision of Chapter 2 of 1999 Constitution while diverting state funds to personal use was criminal. This is commendable. The process may seem slow but it is journey in the right direction. So many decisions also avail in which the court have intervened to ensure that breaches of the fundamental rights on Nigerians were unconstitutional, null and void

Thank you.

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