

INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS AND THE SCOURGE OF CORRUPTION IN NIGERIA: CONFRONTING THE *DEMON*.

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ABSTRACT

Human rights are inalienable and imprescriptible because they are rights we enjoy by virtue, solely of being human; rights naturally inhering in human being; rights and freedom which every person everywhere and at all times equally has by virtue of being moral and rational creature. By doctrinal or theoretical approach, this paper investigated the proposition that these rights, endorsed by International Community as Bill of Rights are principally constituted by the Universal Declaration of Human Rights, International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights. These rights, especially those enshrined under the International Covenant on Economic, Social and Cultural Rights, also endorsed as chapter 2 in the Nigerian Constitution are threatened not only by lack of resources to secure them but by the scourge of corruption which has become so endemically intractable as to threaten the Nigerian nationhood. The paper examined impact of corruption on these basic human rights and found the scourge of the result of successive military and civilian government on failure to deliver on their promises to tackle corruption. The paper thus recommended that ordinary people must take their destinies in their hands, through some collective measures, to save the Nigerian Nation before this *demon* destroys the next generation, ahead of its emergence.

Key Concepts: ICESCR, Scourge of Corruption, Human Right and Demon.

Introduction

Before the United Nations Charter, International Law did not actually recognize natural rights although there were indications in that direction.¹ However, the beastly injustice perpetrated by man against man in the Second World War, which resulted in growing insecurity and decline of socio-economic standard and social justice resulted in the revival of natural law in a relativistic complexion, as ideals that inform and inspire man-made law.² According to Anan,³ it was the shocking revelation of the atrocities of the Second World War that brought the international community to the threshold of the realization that human rights could no longer be left to domestic jurisdictions. All the same, attempt to include a Bill of Rights in the 1945 Charter dragged on, till 1948 when the United Nations General Assembly adopted the Universal Declaration of Human Rights, symbolic only and as aspiration to which member States should strive to attain.⁴

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¹ N.O. Ogbu *Human Rights Law and Practice in Nigeria* (CIDJAP Press: 1999) 10

² *Ibid.* at 10

³ Kofi Anan, a one-time Secretary General of the United Nations

⁴ K. Anan, 'The Universal Declaration of Human Rights' (1998) Vol.8 no.29 *CRJ30* <www.aquaac.org/un/liberate.html> accessed on 10.06.2016 See also Casiokeun, *op cit*

Almost twenty years after the Universal Declaration of Human Rights was adopted, two other treaties, namely, the *International Covenant on Civil and Political Rights*⁵ and *International Covenant on Economic, Social and Cultural Rights* were adopted.⁶ These two treaties, covering almost all the rights enshrined in the UDHR constituted a turning point in International human rights regime, from 1966 when they were adopted, till date. While rights enshrined in ICCPR are regarded as first generation, non-derogable rights, those in ICESCR are regarded as second generation rights.⁷ Since the realization of economic, social and cultural rights are essentially state bound, article 2(1) of ICESCR only created obligation on State party to take all appropriate measures within available resources to progressively realize the rights enshrined in the said treaty. Paragraph 3 of the said article grants discretion to ‘developing countries’ to determine extent to which they could guarantee the economic rights of non-nationals, under the treaty.

In Nigeria, the terms of this treaty have been adopted as chapter 2 of her Constitution with a rider that judicial powers of the Court shall not extend to any issue or question regarding conformity with the *rights* enshrined in the said chapter, referred to as “Fundamental Objectives and Directive Principles of State Policy”.⁸ Exploring the permissive provisions of article 2 of ICESCR along with the provision of non-justiciability of chapter 2 under the Nigerian Constitution, successive governments in Nigeria have corruptly taken cover under these provisions to trample underfoot, several human rights, whose enjoyment cannot be ensured in isolation from the rights enshrined in chapter four of the Constitution. Today, in Nigeria, right of Nigerians to determine their political status, to freely pursue their economic, social and cultural development;⁹ the right to work to earn one’s living;¹⁰ the right to just conditions of work, fair wages, decent living,¹¹ safe and healthy working conditions, social security, adequate standard of living¹² and right to basic education¹³ have either been decimated or made extinct, not primarily for lack of resources to achieve these rights but by the volume of corruption that has become so endemically intractable by successive administrations that now threaten the Nigerian nationhood.

This paper therefore examines impact of corruption, as a *demon* bedeviling basic human rights in Nigeria, with particular reference to the rights enshrined in ICESCR. The paper is aimed at show-casing half-hearted efforts of previous military and civilian administrations in Nigeria in combating this scourge, to recommend what other measures must be employed, to combat and conquer this demon that has threatened every aspect of the life of ordinary man or woman in Nigeria. The significance of this paper is emphasized by the fact that unless Nigerians take their destinies in their hands, the next generation could be destroyed ahead of its emergence.

Conceptual Clarification

For clarity, it is imperative to explain the framework in which some of the core concepts in this paper have been employed. To avoid duplicity however, only the scourge of corruption and import of international Covenant on Economic, Social and Cultural Rights as it relates to the

⁵ Hereinafter referred to as ICCPR, 1966.

⁶ Hereinafter referred to as ICESCR, 1966.

⁷ N.O. Ogbu, *Human Rights Law and Practice in Nigeria* (CIDJAP Press: 1999) 10

⁸ The Constitution of the Federal Republic of Nigeria 1999, as amended, S.6 (6) (c)

⁹ As in article 15, ICESCR 1966

¹⁰ Article 6, ICESCR, 1966

¹¹ Article 111, ICESCR, 1966

¹² Article 9 & 11 ICESCR, 1966

¹³ Article 13, ICESCR, 1966

Nigerian Constitution is clarified at this point, while the rest concepts are explored in the main body of the discussion.

Corruption

Although corruption is differently perceived by various societies but its manifestations and impact bear global outlook, thus giving rise to seemingly familiar definitions across the board. It is defined to include bribery, fraud and other related offences, including any action or commission initiated by any member of an organization against the rules, regulations, norms and ethics of the organization the purpose of which is to meet the selfish ends of such member.¹⁴ According to International Monetary Fund and World Bank, it is the abuse of public office for private gains; an anti-social behaviour contemning improper benefits, contrary to legal and normal norms undermining capacity of constituted authority to secure the welfare of her citizens.¹⁵ To Gray and Kaufmann, corruption 'include bribery and corruption necessarily involving at least, two persons and other malfeasances that a public official can carry out alone, including fraud and embezzlement'.¹⁶

Whatever the differences in the presentation of corruption by various scholars however, the manifestation of this global scourge is virtually the same all over the world. In its intrinsic workings therefore, corruption manifests in form of abuse of office and privileges, low level of transparency and accountability, inflation of contracts, misappropriation, advance fee fraud, collection of illegal toll, drugs and arms smuggling and the like.¹⁷ In Nigeria, it is clouded in various local expressions like financial malpractices, *egunje*, dash-dash, gratification, brown envelopes, palm greasing, ground softening, settlement, below the table, appeasing the gods, undocumented payment, *kick-back*, shady deals, 10% load, secret-secret and the like.¹⁸ Its tentacles extend to government activities by appropriation of public assets for private use, embezzlement of public funds by politicians and high ranking civil and corporate servants. It manifests in the running of every aspect of national economy as in the case of fake drug manufacturing and importation, adulteration of foods, drinks and cases of piracy and fraud at all levels of national life.¹⁹ It is identifiable in form of illegal, unethical and unauthorized exploitation of natural resources of the nation and grossly too, in the electoral system in form of electoral manipulations and other irregularities.²⁰ Its spread to every aspect of the nation's life, including politicians, law enforcement agents, civil and public servants and even organized and liberal labour sector justifies description of corruption as a *demon* or systemic vice, especially in Nigeria where even religious organizations are as soiled in this vice as any other sector.²¹

Today, corruption has so overwhelmed and damaged what used to be referred to as African cultural value of every one being responsible to all, or communal living to the extent that honesty in any public office in Nigeria has become irrational, thus crippling all anti-corruption measures.²² Indeed, corruption has become so endemic that even at family level, children

¹⁴ Corrupt Practices and Other Related Act, 2000, section 2

¹⁵ S. Osoba, 'Corruption in Nigeria, Historical Perspective' *Rev. Afr. Pol. Econ.* 23 (69) 317 and 386.

¹⁶ C.W. Gray and D. Kaufmann 'Corruption and Development' <<https://www.imf.org/1998/03/pdf>> accessed on 20-07-2020.

¹⁷ K.O. Amah, 'International Journal of Academic Research in Business and Social Sciences' <<https://hrmars.com/index.php/pages/detail/IJARBS>> sourced on 16-07-2020.

¹⁸ Amah K.O *op.cit.*

¹⁹ Ibid.

²⁰ Ibid.

²¹ Ibid.

²² O, Alege 'Effects of Corruption on Economic Development in Nigeria' <<https://www.longdorm.org/articles>> accessed on 16-07-2020.

habitually and tactically ask for gratification as pre-condition for carrying out their normal domestic chores.

Some authors allude corruption to African notion of family inter-dependence which allusion this paper vehemently rejects because that is an allusion to laziness as African vice.²³ In countries where corruption is as rampant, it is not as much of expectation of help from public office holders as much as lack of affirmative character of sort. The underlying basic principles of social organization anywhere in the world should be an understanding that everybody must be allowed to seek his own good, through legitimate individual efforts, with the rationale that the principle would guarantee the common good of the larger populace.²⁴ This principle forms the basic foundation of every social order, and the ultimate consideration for economic, political, social and cultural or whatever activity of every society. However, where survival at any cost and by any means is implied in the individualized type of social organization, not everybody can successfully seek his own good, let alone pursue and accumulate wealth.²⁵ Thus, in reality, it is only a tiny fraction of such society and mostly, those with direct or indirect link with the state functionaries that are able to seek their own good; to accumulate enough wealth, to further appropriate State power and resources, by which they exploit the labour and sweat of the majority, unhampered. Such negligible few ignore laws, rules and procedures to hypocritically project themselves as seeking of the goods the society.²⁶ This development provides a fertile ground for corruption in every sector of each society.

In the Nigerian situation, the over concentration of power at the centre under the Nigerian federal structure, accentuated by the long years of military rule has continued to ensure that corruption thrives in the country.²⁷ Under such arrangement, government is the focus of power in the country, determining the level and nature of economic activity. In short, the government is the economy, the greatest industrial and agricultural power, the biggest contractor and sole owner of natural resources. It is the largest employer and financier, and determines the rule of the game, in form of regulations with which all economic activities must comply, such as interest rates, land tenure, service fees, import, import quotes, pricing, among others.²⁸

Where the bureaucracy is under constant pressure from numberless profit seekers, all clamouring for permits, contracts, certificates, import licenses, as it is in Nigeria, the temptation becomes overwhelming to beat due process for one's desired result.²⁹ Under such a circumstance, direct involvement of government in economic activities becomes an invitation for corrupt practices. These factors have severally and collectively provided fertile grounds for sharp practices in both public and private organizations, with serious impact and consequences on the Nigerian society and economy.

Human Rights and ICESCR

Human right as a concept has philosophical root in the natural law School, warranting its description by Crankton as the "twentieth century name for what has been traditionally known

²³ L.U. Odo, 'The Impact and Consequences of Corruption on the Nigerian Society and Economy' *International Journal of Arts and Humanities (IAH) BahirDar-Ethiopia* vol.4(1) 2/no.13, January 2015, p.177-190.

²⁴ Ibid.

²⁵ Ibid.

²⁶ G.E. Chinweuba, 'Culture and Corruption: A Critical Analysis of the Basis of Nigerian Depraved Experience' <<https://www.ajol.info/article/view>> accessed on 16-07-2020.

²⁷ B.U Deezia, 'Gift, Bribery and Corruption in Nigeria: A Philosophical Re-Interpretation' *London Journal of Research in Humanities and Social Sciences* <<https://journalpress.com/gift-bribery-a>> accessed on 18-07-2020.

²⁸ Odo, Op.Cit.

²⁹ Ibid.

as natural rights, or in a more exhilarating phrase, rights of man”.³⁰ Drawing its inspiration from nature, the theory of natural law holds that there is some connection between law and the value of freedom and equality in the sense that an oppressive and arbitrary rule over human beings is incompatible with human nature, as intended by the creator.³¹ It was on this principle that the 17th and 18th century philosophers like Hobbes, Rousseau, Montesque and Locke developed their concept of inalienability and imprescriptibility of human rights on the notion that human rights attach to all humans, everywhere, at all times, by virtue of their being human.³²

From this, it is clear how human rights came to be variously defined as “the right one holds by virtue solely of being a human person... right naturally inhering in the human being”,³³ “those claims made by men, for themselves or on behalf of other men, supported by some theory, which concentrates on the humanity of man as a human being, a member of mankind”,³⁴ “rights and freedom which every person is entitled to enjoy possibly deriving from natural law”,³⁵ “rights one has simply because one is a human being”,³⁶ “rights which all persons everywhere and at all times equally have by virtue of being moral and rational creatures”.³⁷ After resolving the ideological differences between various nations on the implication of an International Bill of Rights as against State sovereignty, the Bill of Rights was adopted in 1948, described as a milestone in the struggle for human rights.³⁸ As a standard for all human rights, this Declaration is said to have inspired over sixty instruments and Constitutions of most countries, including Nigeria.³⁹

This document that was initially symbolic of the aspiration that member States were meant to work towards, has today become a basic component of customary International Law, binding on all States, thus forming part of the International Laws on Human Rights that Nigeria must be guided by.⁴⁰ Indeed, it has been said to “form part of the *jus cogens – peremptory norms*” of Customary international law, considered as binding on all members of the community of nations.⁴¹ Apart from this are the International Covenant on Civil and Political Rights⁴² ratified by Nigeria which makes specific provisions protecting minorities against marginalization; the International Covenant on Economic, Social and Cultural Rights⁴³ which is the focus of the paper, and several other human rights Conventions and Protocols, some of which Nigeria has since ratified, thus making them enforceable as part of the Nigerian laws; subject only to the

³⁰ N. Cranshton, ‘What are Human Rights?’ <www1.umn.edu/humanrts/.../what-are-human-rights> accessed on 10-06-2016. See also O.N. Ogbu, *Human Rights Law and Practice in Nigeria* (CIDJAP Press, 1999) 3. See also B.O. Nwabueze, *Constitutionalism in the Emergent States* (C. Hurst and Co.ltd; 1973) 41; P. Roscoe, ‘Philosophical Foundation of Human Rights’ (UNESCO, 1986); Karel, V., *International Dimensions of Human Rights* (Paris: Pendone, 1981)

³¹ Ogbu, Op. Cit. at 4.

³² T. Hobbes, ‘History of the Inalienability Rights Argument’ <www.abolish-human-rentals.org/hobbes> accessed on 10-06-2016; J. Rousseau, ‘The Inalienable Rights of the Individual and the Sovereign Will’ <quadrant4.org/rousseau.html> accessed on 10-06-2016; W.C. Montesquieu, ‘Inalienable Rights’ <www.ellerman.org/inalienable-rights/> accessed on 10-06-2016; Locke, J., ‘Theory of Inalienable Rights’ <communityweber.edu/.../theory-of-inalieble-rights> accessed on 10-06-2016

³³ L. Rutherford, and S. Bone, (eds) *Osborne Concise Law Dictionary*, 8th edn (Sweet and Maxwell, 1993) 293

³⁴ J. Donnelly, ‘Human Rights and Human Dignity: An Analytic Critique of Non-Western Conceptions of Human Rights’. *American Political Science Review*. [1982] vol.76. 305

³⁵ *Ibid.*

³⁶ Nwabueze, B., *Constitutionalism in the Emergent States* (C, Hurst &Co; 1973) p.83 See also Ogbu, *op.cit*

³⁷ Nwabueze, Op.Cit.

³⁸ The Universal Declaration of Human Rights (hereinafter referred to as UDHR). See also T. Elias, *New Horizons in International Law* (Sijthoff & Noordhoff International Publishers, 1979) 162.

³⁹ T. Elias, *New Horizons in International Law* (Sijthoff & Noordhoff International Publishers, 1979) 162.

⁴⁰ Ogbu, *op.cit*. See also International Conference on Human Rights, Tehran, 22 April-13 May, 1968 per Un doc. A/CONF.32/42

⁴¹ See Tehran Conference Declaration, *op.cit.*, See also Eze, *op.cit.*, at 10

⁴² Hereinafter referred to as ICCPR; which provisions elaborately influenced chapter 4 of the 1999 Constitution. See Ogbu *op.cit*

⁴³ Hereinafter referred to as ICESCR, 1966.

provisions of the 1999 Constitution. At the regional level is the African Charter on Human and Peoples' Rights, which Nigeria has also ratified and expressly adopted as part of her domestic law on Human Rights.⁴⁴ In this paper however, emphasis is on the impact of corruption on the workings of ICESCR with all its trajectory, as endorsed in chapter 2 of the Constitution of the Federal Republic of Nigeria, 1999 as amended.

ICESCR and the Constitution of the Federal Republic of Nigeria, 1999, as amended.

As earlier mentioned, although the Declaration of Human Rights was adopted by the United Nations General Assembly in 1948 but specific human right instrument detailing each secured right could not evolve till several years after, because of ideological differences of principal actors on the Security Council of the United Nations.⁴⁵ However, when the nations set aside their differences some eighteen years later, two instruments were passed that opened the flood-gate of enforceable rights. These were, the International Covenant on Civil and Political Rights, referred to as first generation rights and the International Covenant on Economic, Social and Cultural Rights, otherwise referred to as second generation rights. The third and fourth generation rights were to follow later. These, along with the Declaration of Human Rights sum up as International Bill of Rights.

In the case of ICESCR, the 31 Article Covenant secures right to self-determination,⁴⁶ equality of men and women to the enjoyment of all rights;⁴⁷ right to a freely chosen work, including right to earn one's living from such work;⁴⁸ right to fair wages for decent living for one's self and his family, equal pay for equal work along with safe and healthy working conditions, equal opportunity for promotion, rest and leisure;⁴⁹ right to form and join trade unions and to strike;⁵⁰ right to social security, including social insurance; right to adequate standard of living;⁵¹ right to enjoyment of the highest attainable standard of physical and mental health; right to education, making primary education compulsory;⁵² and right to take part in cultural life and enjoy benefits of scientific progress.⁵³

Incidentally, articles 2 and 4 of this Covenant, permissively seem to take by the left hand what the Covenant gave by the right hand. Article 2(1) makes maximum enforcement of the Covenant subject to 'available resources, with a view to achieving progressively the full realization of the rights recognized in the present covenant by all appropriate means...' Beyond this, article 2(3) grants discretion to 'developing countries' to 'determine to what extent they would guarantee the economic rights recognized in the present covenant to non-nationals'. Article 4 empowers the State to 'subject such rights only to such limitations as are determined by law... for the purpose of promoting the general welfare in a democratic society'. Adopting this Covenant as 'Fundamental Objectives and Directive Principles of State Policy' in chapter two of

⁴⁴ By Section 12(1) of the 1999 Constitution. "No treaty between the Federation and any other Country shall have the force of law except to the extent to which any such treaty has been enacted into law by the National Assembly. See *Attorney-General for Canada v Attorney General for Ontario* (1937)AC.326; *African Reinsurance Corporation v Falaye* (1986)3NWLR (pt.31) 811 at 834.

⁴⁵ M.O.U Gasiokwu, *Human Rights, History and Methodology* (Chenglo Limited, 2006)136.

⁴⁶ Article 1

⁴⁷ Article 3

⁴⁸ Article 6

⁴⁹ Article 7

⁵⁰ Article 8

⁵¹ Article 9

⁵² Article 11, 12, 13

⁵³ Article 15

the 1999 Constitution, Nigeria seemed to take clue from this permissiveness when section 6(6)(c) of the said Constitution, provided that any issue relating to rights guaranteed in its chapter two is not subject to judicial inquest.

At the international level, human right activists and scholars have prevailed with the idea that whether first, second or third generation rights, all rights are indivisible, inter-dependent and mutually enforceable.⁵⁴ Indeed, the position seems to be given a more robust outlook by the Vienna Declaration, adopted by the Human Rights Conference to the effect that:

All human rights are Universal, indivisible, interdependent and interrelated. The International Community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis. While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in *mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedom.*⁵⁵

For now, position of the law in Nigeria is that until the legislature singles out and legislates on a particular provision in chapter 2 of the Constitution, such provision remains non-justiciable, notwithstanding the clamour of human right activists and declaration of International human right committees in that behalf. In any case, the main issue in this paper is as to whether the main reason for non-justiciability of provisions of chapter 2 of the Constitution can justifiably be said to be non-availability of economic or financial resources or the scourge of corruption.

The issue of how corruption may be conceptualized as a human right violation does not require much effort to identify, at least in its vicious circle manifestations. For instance, whereas it is common in Nigeria, genuine drug purchase is corruptly compromised, the right to life or good health of members of the public is threatened or violated; right to education is violated where funds meant for education are embezzled; right to work is violated where nepotism, tribalism, sectionalism and bribery displace qualification; right to adequate standard of living is compromised where occupiers of public office allow their personal interest to influence their judgment on the quality of medical care, education, water and housing and several other rights under ICCPR. This is the scenario playing out in the Nigerian Niger Delta Region where, despite billions of dollars allocated to infrastructural, social, educational and economic developments of the region, no visible development can be shown for such huge investment because of corrupt misappropriation by the managers of the Niger Delta Development Commission, in conjunction with the Ministry of Niger Delta Development over the years.⁵⁶

Without engaging in unnecessary scholastic controversy in this respect, it is the humble view of this paper that approaching this issue from the perspective of “State obligation to

⁵⁴ The Council of Europe in tacit agreement with this position had, in its Declaration on Human Rights, Democracy and Development said “The European Community and its Member States draw particular attention to the Universality and Indivisibility of human rights and the obligation of all States to respect them. They stress the important role of development assistance in promoting both economic, social and cultural rights as well as civil and political liberties by means of representative democratic government” See E. Osita, *Study on the Right to Adequate Housing in Nigeria* (Lagos: Shelter Rights Initiative, 1996) 21; T. Yerima, ‘Internationalization of Human Rights: A Critical Appraisal and Comparism of the Trilogy of Documents in the UN System’ *Ikeja Bar Review*, (2006/2007) vol.1 pts 1&2, at 25.

⁵⁵ World Conference on Human Rights of 1993, *UN doc. A/CONT.157/23, 12th July 1993 endorsed by UN General Assembly Resolution 48/121, adopted without a vote on 20th December, 1993.*

⁵⁶ This Day-Lagos, ‘Nigeria: NNDC-a Disturbing Cesspool of Corruption’ <<https://alaafrica.com/stories>> accessed on 20-07-2020.

protect,” corruption may be regarded as the gravest instrument of human right abuses than any other measure. For instance, none of the State obligations in article 2(1) of ICESCR, including obligation “to take steps”, “to achieve progressively the full realization of the rights in the treaty” and to take steps against “discrimination of any kind” can be attained where corruption dominates execution of government policies. Indeed, in the circumstance where article 2(1) of ICESCR makes State obligation subject to “available resources”, an exit path is created for a corrupt government to decline under the guise of non-availability of resources. Where available funds are misappropriated on “white elephant” projects or fictitious “military investment”, it is difficult to fathom how a corrupt government would engage in “all appropriate means” as in article 2(1) of ICESCR to ensure that the rights guaranteed under this treaty are secured. These are the issues upon which an exposition on corrupt practices in Nigeria is pedaled in this paper before the discussion on how to contain the seemingly intractable scourge of corruption, referred to as a demon in this paper.

Looking at the financial index of Nigeria as a nation and the intractable surge of corruption despite extensive network of legal framework on anti-corruption, it is obvious that the inability to meet the standard of ICESCR is not as much with lack as much as the endemic scourge of corruption which adopted a cancerous posture, for which the vulnerables of the Nigerian society are the worst for it.⁵⁷ As earlier stated, the Nigerian body polity is pervaded by moral, economic, political, bureaucratic and electoral corruption, affecting every sector of her national life. There is unimaginable level of corruption in the political party system, the media, the legislature, all aspects of the economy including the petroleum sector, Trade-Related and Industrial sector, infrastructural network, power sector, financial sector, security sector and even the realm of anti-corruption agencies, all of which seem to steadily drive Nigeria to the *precipice* of the status of a failed State.⁵⁸

This explains why there is impunity everywhere, engendering insecurity to the point of survival of the fittest, where the rich pay the police and all other national security personnel for their security while ordinary Nigerians are maimed, deformed, murdered, kidnapped and decapitated on daily basis, as if to redefine rule of law in Nigeria.⁵⁹ Before now, the Nigerian government saw the Boko Haram insurgents⁶⁰ as the only challenge but as things are now, it is obvious that Nigeria is going through a period of national emergency where the common man no longer feels safe to pursue his business to secure his livelihood; school children and students now feel unsafe to go and return from school; nor are hospitals and healthcare centres safe anymore. In the face of such insecurity, it is difficult to fathom whatever has become of Nigeria’s undertaking ‘to take steps to ensure’ protection of these rights and the prohibition of any person from destroying any of these rights as enshrined in article 3, 5, 7, 11 and several others of the ICESCR.

Confronting the *Demon*

Corruption may be a global phenomenon but its definitive manifestations are usually understandable within the social context of each society. However, in its general context, it may be defined as an anti-social behaviour conferring improper benefits away from established legal

⁵⁷ R. Musser, ‘Overcoming Nigeria’s Crippling Threat of Corruption’ <<https://www.cipe.org/blog/2019/02/14/>> accessed on 19-07-2020.

⁵⁸ M. Page, ‘A New Taxonomy for Corruption in Nigeria’ <<https://carnegieendowment.org/new-tax>> accessed on 19-07-2020.

⁵⁹ O.O. Ewetan, ‘Insecurity and Socio-Economic Development in Nigeria’ <<https://covenantuniversity.edu.ng/>>... accessed on 19-07-2020.

⁶⁰ An Islamic movement opposed to any form of Western Education with a long term vision of Islamizing Nigeria.

and moral norms of each society, which undermines capacity of constituted authority to meet expectations of the populace.⁶¹ It is a means of private diversion that determines political climate of each dispensation because wealth, howsoever it is amassed, speaks volumes on who dictates political climate of each dispensation in African society, Nigeria in particular.⁶²

This explains why the military has continued to dominate politics in Nigeria over the years, under military and civilians regimes. In their primary constituency, the military have always been known to garner popular support during each round of *coup d'etat* by the claim of anti-corruption agenda which they never kept. Instead once they secured their tenure, they were overtaken by the same monster they claimed was the undoing of the previous civilian regime and then amassed wealth with which they dictate political direction of Nigeria, after their tenure.⁶³ Except for this reason, the military in Nigeria would have steered the direction of popular uprising that would have stemmed corruption, reminiscent of the events that brought Jerry Rawlins to power in Ghana,⁶⁴ and the events that saw Al Bashir⁶⁵ of North Sudan out of office in 2019. But in Nigeria, the Military is reckoned as too compromised to be trusted.

In the case of Ghana, Jerry as a Flight-Lieutenant then, led a group of junior Ghanaian army officers in a failed coup that resulted in his incarceration in May 1979, from where he resorted to all forms of communist ideological utterances that drew hearts of Ghanaians of all walks of life, in his support.⁶⁶ Barely one month later, the junior officers seized power that ushered Jerry Rawlins to power, for a house cleaning exercise. Rawlins's administration executed several senior military officers and those adjudged as corrupt politicians and businessmen, including former heads of States, as a measure towards recalibrating Ghana's national moral compass for a new democratic leadership. Even when Rawlins handed power to a democratically elected President in the person of Lipmann but when Lipmann's administration could not sustain the people's expectation of a new Ghana, Jerry once again intervened to reposition Ghana then, and till date which move fundamentally altered the political and economic terrain of Ghana.⁶⁷ No matter what scholars regard as the 'complicated political legacy of Jerry Rawlins' but it is obvious that the courage and fortitude of Rawlins contributed in no small measure, to the political and economic stability of modern day Ghana.

Incidentally, looking at the rundown of Military Heads of States that have steered both military and civilian regimes in Nigeria over the years, it is unfortunate to observe that apart from the brief moment of General Murtala in office, Nigeria is yet to be blessed with a military officer with the spirit of Jerry Rawlins. Instead, we have corrupt opportunist military leaders that scavenged on the Nigerian economy, in their quest to dictate political pace in and outside office. For now, where the military has failed the people; where the civilians have failed the people, including Buhari who came on the platform of fighting corruption, it appears that this is the point the people must take their destinies in their own hands, to fight the *status quo*, waiting to destroy the next generation in Nigeria.

⁶¹ A.E. Obayeln, 'Effects of Corruption and Economic Reforms on Economic Growth and Development: Lessons from Nigeria' <<https://www.longdorn.org/articles>> accessed on 19-07-2020.

⁶² Amah, *op.cit.*

⁶³ M.M. Ogbeidi, 'Political Leadership and Corruption in Nigeria Since 1960: A Socio-economic Analysis' <<https://nairametrics.com/2013/03>> accessed on 19-07-2020.

⁶⁴ J. Hart, 'The Complicated Political Legacy of Jerry Rawlins' <<https://africasacountry.com/2019/05/t...>> accessed on 19-07-2020.

⁶⁵ D. Walsh, 'The Fall of Omar Hassan Al-Bashir, the 'Spider' at the Heart of Sudan's Web' <<https://www.nytimes.com/world/Africa>> accessed on 19-07-2020.

⁶⁶ Hart, *op.cit.*

⁶⁷ Ibid.

In Northern Sudan, revolution started as one innocent demonstration that translated into a movement that witnessed blood of several innocent civilians flow.⁶⁸ But because the people had been pushed to the wall, they refused to give up until the cabal that had all along supported Al Bashir caved in, giving support to the civilians. Even when the military subsequently behaved true to their instinct for greed but because the people refused to give up, the revolution succeeded, at least, basically⁶⁹. The question now is, where do Nigerians begin their anti-corruption crusade from? As it is now, the oligarchy continues to deceive the people with all forms of legislative and administrative measures as panacea for arresting or at least, slowing down the velocity of the wagon of corruption but it is now obvious that the problem is not as much with legal apparatus as much as lack of political will and zero sense of nationalism.

When General Muhammadu Buhari joined the Presidential race in Nigeria in the 2015 General election, after a woeful defeat on two occasions previously, he came on a jingle of '*Change Dolle*', change by force; as an anti-corruption crusader. Although Nigerians knew too little about his capacity to fight corruption outside his brief performance as military head of state and in the 'hard' statements he made on isolated instances, but because the people were already overburdened with broken promises arising out of failed politicians, Nigerians saw in him a civil similitude of Jerry Rawlins, a rallying point for anti-corruption crusade, towards a revolutionary movement.

But alas, he showed from the beginning that although he carried the hand of *Esau* but he had the voice of *Jacob*, the same clique that deceived Nigerians over the years. He adorned himself as anti-establishment crusader but he lacked the fortitude and firmness of such a crusader. For one, he came lacking any blue print on how to fight corruption.⁷⁰ He had no team of his own and he possessed all the religious, sectional and tribal bigotry that are index of corrupt leaders and for which such leaders, including Nigerian leaders failed and fell. Unlike Jerry Rawlins who understood that if Ghana must be repositioned for newness, the cancerous virus in the system must be extracted, even if crudely, but in the case of Buhari, he wholly relied on the political party made up of the disgruntled gang from the coalition of other failed parties that brought him to office, to foist on him a cabinet that was doomed from day one. Beyond this, he sought to secure his tenure by surrounding himself with people from his home-base, even if nepotistically, instead of creating a 'people's fence' around himself, through performance of the agenda that brought him to office.

Having identified his weakness to coordinate himself, his home and the nation, his kitchen and inner cabinet hijacked the official anti-corruption agencies to witch-hunt perceived political enemies in isolated anti-corruption prosecution by the help of a cowed judiciary.⁷¹ On security, Nigerians have been left most vulnerable under Buhari's administration than any other leader before him. Bereft of any sense of direction, for reasons Nigerians are yet to decipher, he resorted to policy measures informed by religious and sectional sentiments that opened the gates of Nigeria to the same band of criminals that constituted the Boko Haram insurgents that has been the most intractable challenge of his administration.⁷²

⁶⁸ Walsh, *op.cit*

⁶⁹ *Ibid.*

⁷⁰ Y. OLaito, 'What Buhari's anti-corruption war is failing' <<https://www.thecable.ng/buharis-anti-co...>> accessed on 14-07-2020.

⁷¹ F. Mbah, 'Has Nigeria's President Muhammadu Buhari Honoured his Promises' <<https://www.aljazeera.com/2019.02>ni...>> accessed on 12-07-2020.

⁷² BBC News, 'Nigeria's Muhammadu Buhari Promises Africans Visas on Arrival' <<https://www.bbc.com/news/world-africa..>> accessed on 12-07-2020.

An anti-corruption crusader that must make impact must be firm and consistent but Nigerians don't seem to find such a person, not because none exists but because of political manipulation, another index of corruption. Buhari came to exploit the vacuum, not because he possessed such virtue but because he could act as one. That explains why his so-called anti-corruption crusade lacks template and therefore isolationist and vindictive. In the Maina saga for example, Nigerians are yet to be told how an individual, indicted of fraud and who absconded from duty and the arm of the law for so long was suddenly reinstated, not through back-door but by full endorsement of necessary bureaucratic organogram.⁷³ And within the same period, the same administration claimed to indict a sitting Chief Justice of the Federation by an instrument of an ordinary administrative tribunal.⁷⁴

Only in July 2020, anti-corruption insignia of this administration was punctured and rubbished when Ibrahim Magu, the arrow-head of anti-corruption of Buhari's administration was caught in a web of high level corruption of multi-billion stature.⁷⁵ For the records, when the President presented Magu to the Senate for screening to that office, the Directorate of State Security (DSS) a Federal Government Intelligence Agency answerable to the President had indicted Magu as failing integrity test for the post of Chairman of Economic and Financial Crimes Commission (EFCC). As if to repackage the same candidate, the President re-presented Magu as his nominee for that office, to the Senate. And for the second time, the DSS reported that he lacked integrity to occupy that office but quite surprisingly, the 'anti-corruption' president of Nigeria chose to retain Magu as 'Acting Chairman' of the said commission for five years, amidst protestations of the legislature and the Nigerian public, until recently when the Attorney General, prompted by Press reports of massive corruption, recommended removal of Magu.⁷⁶

Surprisingly again, the President resorted to a face-saving measure by setting up a panel to 'investigate the fraud' instead of handing his right hand man to the law enforcement agencies for scrutiny and possible prosecution. In Nigeria, administrative and judicial panels are known to be successive government measures for covering up fraud, to pacify spontaneous public outcry against heinous corrupt practices.⁷⁷ Here again, Nigerians are in no doubt that the Magupanel is another ploy to kill and bury another fraud on the economy; and by inference, a measure to leave the people's quest for any form of human rights in the doldrum.

Indeed, by the way the fight against corruption plays out, it is obvious that from the Executive to the Legislature and even up to the Judiciary that is supposed to be the last hope of the common man and rule of law, they have all been compromised. Up and until now, for instance, Nigerians are yet to be told how the Court in Nigeria found James Ibori, the former Governor of Delta State not culpable for charges of corruption leveled against him and subsequently, the culprit virtually pleaded guilty to charges arising from the same trend of facts before a Court in the United Kingdom.⁷⁸ Beyond Court trial, it is obvious that the Federal Government treatment of those the Court system tries to convict justifies expression in Nigeria

⁷³ A. Abdulaziz, 'Why we reinstated fugitive ex-pension Chief, Mania-Nigerian government' <<https://www.premiumtimesng.com/news>> accessed on 12-07-2020.

⁷⁴ S. Ogundipe, 'Nigeria: The full Corruption Charges Against Chief Justice Walter Onnoghen' <<https://allafrica.com/stories>> accessed on 08-07-2020.

⁷⁵ S. Olukoya, 'Nigeria anti-corruption Chief suspended, accused of graft' <<https://www.washingtonpost.com/africa>> accessed on 16-07-2020.

⁷⁶ Punch, 'How DSS Report made Senate to Reject Magu' <[https://punchng.com/dss-report-made-s-.](https://punchng.com/dss-report-made-s-)> accessed on 19-07-2020.

⁷⁷ Wikipedia, 'The Human Rights Violation Investigation Commission of Nigeria' <<https://en.m.wikipedia.org/wiki/The..>> accessed on 19-07-2020.

⁷⁸ D. Thomas, 'Nigeria: How Ibori was convicted in UK-EFCC' <<https://allafrica.com/stories>> accessed on 14-07-2020.

that “dogs don’t eat dogs”. For almost every conviction of all major political players in the last decade, they hardly had time to settle down in prison to serve their terms before the Presidents, their kind, for cheap political gains granted them pardon, to a heroic welcome of those who benefited from their corrupt administration.⁷⁹ This way, trial and conviction of corrupt officials in Nigeria is perceived as a mere political smoke-screen, at the pleasure of the party in power, to the detriment of basic human rights of the common man.

No doubt, pressure for political restructuring of the Nigerian State by the Yoruba stock⁸⁰ and the clamour for cessation by the Ibos calling for a State of *Biafra*⁸¹ is an expression of the people’s exasperation over the enormity of corruption in Nigeria. This looks like the people’s last alternative in venting their frustration, where their hope of arresting the devourer called corruption has failed, even in the hands of their most trusted *Messiahs* that suddenly turned to demons in office. While cessation may not be the best solution of a marginalized and heart-broken people, but it is a temptation that can hardly be resisted where the people watch a slim cabal, milking economy of the Nation dry, while a particular section of the country or even the entire larger population wallow in abject poverty, in breach of assurances of human rights Conventions to which their country is signatory.

Today, both the International Monetary Fund (IMF) and Transparency International rate Nigeria as one of the most corrupt nations in the world and yet, China and other lending outfits continue to act as accessories to the corruption in Nigeria by lending money for white-elephant projects designed to cover-up high level corruption; and all these, with tacit endorsement of the National Assembly that is supposed to act as a check against excesses of the Executive.⁸² With the recent accusation and counter-accusation of corruption between a serving Minister of the Federal Republic and the House Committee on labour matters, it is obvious that the legislature having corruptly sold her birthright to the Executive now lacks the timetary to call any erring arm of the executive to order.⁸³

In the end, the people are left with no alternative than take their destiny in their hands, to chart a new course for themselves and their children. That was the beginning of America’s rise to greatness⁸⁴ and the breakaway of France from Monarchical excesses that were to destroy the people.⁸⁵ In similar tone, Nigerians must reposition and re-orientate themselves in the spirit of Marxists philosophy, to see the Nigerian State as a contradiction to the real interest of all members of the society; an instrument of class oppression where ‘the executive is but a committee for managing the common affairs of the whole bourgeoisie’.⁸⁶ This is the understanding that can break monopoly of corrupt dispositions of the State ruled by individuals that control the economy, at the expense of the vulnerables of the society. It is a step towards a

⁷⁹ F. Olukomaiya, Meet 6 Nigerian Ex-Governors who have been to Prison’ <<https://www.pmnewsnigeria.com/meet...>> accessed on 14-07-2020.

⁸⁰ I.S. Mohammed and M.F. Othman, ‘The Restructuring Nigeria: The Dilemma and Critical Issues’ <<https://www.researchgate.net/publication>> accessed on 19-07-2020.

⁸¹ Refund, ‘Nigeria: Movement for the Actualization of the Sovereign State of Biafra (MASSOB)’ <<https://www.refworld.org/docd>> accessed on 19-07-2020.

⁸² Y. Akinpelu, ‘How Transparency International Assessed Nigeria’s Corruption Level’ <<https://www.premiumtimesng.com/news>> accessed on 19-07-2020 and E. Amaefule ‘World Bank, China top Nigeria’s Creditors...’ <<https://punchng.com/world-bank-china...>> accessed on 19-07-2020.

⁸³ Arise News, ‘Festus Keyamo in shouting Match Against Lawmakers at National Assembly Hearing’ <<https://m.youtube.com/watch>> accessed on 19-07-2020.

⁸⁴ Wikipedia, ‘America Revolution’ <<https://en.m.wikipedia.org/wiki/Ameri...>> accessed on 19-07-2020.

⁸⁵ History Editors, ‘French Revolution: Timeline, causes and summary-History’ <<https://www.history.com/topics/france>> accessed on 19-07-2020.

⁸⁶ J.N. Samba, *Fundamental Concepts of Jurisprudence (Bookmakers Publishing 2006)*104.

revolution that down-plays State apparatus to the status of agency of the people, not wholly in what Engels described as ‘withering away of the state’ but creating a factual scenario towards the arrest of impunity by State apparatus.

Conclusion and Recommendations

This paper on International Covenant on Economic, Social and Cultural Rights examined effect of corruption on the right of common man as guaranteed under the said treaty. The paper found and lamented over the strong hold of corruption upon every facet of the Nigerian national life, in a manner that bereaves the nation of a single leader that may be reckoned as an anti-corruption arrow-head, to steer a people-oriented revolution towards purging Nigeria of this cancerous affliction. The paper particularly laments the politicization of the fight against corruption and whatever International human right treaties to which Nigeria is signatory still import.

As a result of entrenchment of this scourge, the paper took a position that Nigeria’s situation defies internal due process towards arresting this *demon* that has remained the greatest challenge to the Nigerian nationhood. The paper therefore proffers the following recommendations as immediate and long-term measures for saving Nigeria from falling into the bracket of failed States.

- As a check on excessive Executive corrupt tendency, S. 6(6)(c) of the Nigerian Constitution should be amended to remove undue insulation granted to corrupt government, to thus make provisions of chapter 2 of the said Constitution justiciable, so that whoever has facts of corrupt practices depriving him or his community of enjoyment of the rights in that chapter of the Constitution, may subject the facts and grievances to judicial ventilation.
- Nigeria requires a sterner penal and Constitutional measure against corruption and convicts of corrupt practices, to exclude such category of convicts from Presidential pardon. That way, the hope of a corrupt convict returning to his loot after a brief stay in prison will be bleak, thus ensuring a measure of deterrence.
- All State parties to International treaties should be prevailed upon, not only to “take all necessary steps” to domesticate ICESCR but the judicial process of International Court of human rights requires reform that would allow individuals to approach that Court, to ventilate issues arising from flagrant abuses of the provisions of ICESCR. This is especially because, the issue that justified the distinction between ICCPR and CESCER in the aftermath of the Second World War are no longer relevant in a globalized world of this time.
- In a globalized world where what affects one nation creates ripple effect internationally, the issue of sanctity of national sovereignty must be reviewed to allow International Community to call to order or even possibly intervene in events leading to state failure as in the case of overwhelming corruption in Nigeria, instead of waiting to take sides in war-crisis situation of an embattled nation.

Until these measures are taken, the corruption-friendly situation of the International Treaties and domestic laws will not be able to contain the surge of corruption as exist in Nigeria.