**BREACH OF FUNDAMENTAL HUMAN RIGHT IN NIGERIA, CAUSES AND THE WAY FORWARD**

The foundation of democracy in any country is seen in the observance of the rule of law. Consequently the issues of fundamental rights enforcement have continued to feature prominently in our court as there is increasing consciousness in Nigeria of the sanctity and need to protect fundamental rights. Fundamental human rights are right that have constitutional backing and which upon breach or threat of breach are enforceable in court. Human rights are inalienable rights that are accrued to every human, and on that, deserves the maximum protection possible and unhindered protection from infringements. This right has reflected in several international human right instrument, convention, treaties, constitution and laws of different nations of the world, such as, the universal declaration on human rights 1948 {UDHR}, the international bill of human rights, international covenant on economic, social and cultural right 1966 [ICESCR], international covenant on civil and political rights 1966 [ICCPR], child rights act, convention against gender inequality and so on, has reflected the will to protect human right from infringement. And also the Nigerian constitution has endorsed the conception of protecting human right against infringement or breach in chapter IV of its provision. However mere laws on paper are not sufficient to ensure maximum protection of fundamental human rights and the judiciary, the executives and the citizenry must be held accountable and be custodian of the protection that is afforded by the constitution. The judiciary through the advocacy group plays a major role in ensuring that these rights are protected and enforceable in court. This view was portray in **iheme v chief of defence staff** where the court held that where the applicant will not have any court of law to seek redress for the violation or breached of his fundamental right, definitely cannot be the intendment of the law makers in view of the common law principle that where there is a wrong, there must be a remedy. This postulate the sacrosanct of the judiciary through the bar, the bench, and the advocacy group in the protection and enforcement of the inalienable human rights.

The universal declaration on human right [UDHR] was adopted and proclaimed by the united nation through the general assembly resolution on the 10th December 1948, since its declaration, it has become fashionable for most countries of the world including Nigeria to entrench the cataloque of rights in their national constitutions. Regrettable in Africa especially in Nigeria, people are usually subjected to physical and mental torture. The cases of accidental discharges, domestic violence, detention without trial, kidnapping and police brutality are common occurrences. Peoples integrity and dignity are not respected and protected in the society. The judiciary is however employ to do justice in regards to human right violation but at first the judiciary needs to strengthen their independence, press freedom, human right advocacy, education and public vigilance to curtail human rights abuses and promote good governance.

Despite the long term of democratic governance and endorsement of the UDHR charter, Nigerians still face a lot of human rights abuses and violation. These violations are motorist harassment and extortion by security personnel, political assassinations, undemocratic imposition of candidates in leadership and intimidation of political opponent, rape, child abuses, education denial and domestic violence. Human rights are the fundamental feature of any democratic setting because the essence of democracy itself is based on the idea of human rights and these rights are viewed as the inalienable rights of the people. Kaluge in 2003 postulated that human right are those right which cannot be said to have been given to man by man but are earned by being a human because these are necessary for his continuous happy existence with himself, his fellow man and for participation in a complex society. Democracy is the very foundation of human right, in the words of Abraham Lincoln that democracy is a government of the people , by the people and for the people. A democratic society is founded upon freedom, justice and good treatment to all citizens by the state, and also, one infused with the spirit of liberty and the rule of law and order.

**Violations**

According to d’ Engelbronner, he was of the view that the world we live in seems more contradictory and incomprehensible. On one hand, instruments containing provisions for the protection and promotion of the UDHR and fundamental freedoms are recognized by almost all governments, on the other hand, the same human right and fundamental freedoms are violated to a high degree either by the government, groups of people or individual human being. On one hand, people and individuals strive for a more peaceful, equal and democratic world and on the other hand, their fellows prefer the use of weapons and method of war.

Nigerian security forces are frequently alleged to carry out arbitrary arrest, torture, inhuman and degrading treatment, extrajudicial summary executions. These abuses typically occurs within the Nigerian government security operations or are directed against political and religious organizations and individuals. Several instances of mass killing of political opponent and agitators by security forces. however on the 14th December 2015, the Nigerian army carried out a massacre of about 343 members of the Islamic movement of Nigeria [IMN] in zaria , Kaduna state and buried the bodies in a mass graves. During the current issues of the end SARS peaceful protest, humans were deprived of their right of existence, that is, right to life, expression and movement. The lekki massacre was a grave violation of the fundamental rights in Nigeria.

On the book haram issues in july 26-31 2009, the group killed about 37 Christian men and burned about 29 churches, the group also attacked churches in 2011. This was a violation of the right to freedom of thought, conscience and religion as postulated in section 38 of the 1999 constitution. In 2004, boko haram kidnapped approximately 230 female students from a secondary school in the northern town of chibok. Also slaughtered about 76 farmers in Borno state, bomb or explosives was also used in Crowdy places. The recent activities of the army, the police force and boko haram form a grave violation of fundamental human right in Nigeria. A gruesome massacre against farmers in the northeastern Nigeria killed “tens of people”. Tens of civilians were ruthlessly killed and many were wounded and injured in these attack. It was a violent direct attack on innocent civilians who were harvesting their field by armed men on motorcycles. This incident was a grave violation of the fundamental human right, that is, right to life, freedom of movement and any other rights accrued to a person for being a human being.

Some of the gravest violations of the rights to life are massacre, the starvation of the entire population and genocide. War also is a violation of human rights by an individual, either by the military or civilians. Women and girls are often raped by soldiers or forced into prostitution.

The Nigerian police commonly gain extra money by extorting local resident, beating and maltreating of the innocent in a bid of extracting information. The police carrying out an arrest without a prior notification of the reasons or grounds which amount to the arrest, that is, without citing the Miranda rights prior to section 35[3] of the constitution which provided that any person who is arrested or detained shall be informed in writing within twenty-four hours and in the language that he understands of the facts and grounds for his arrest or detention. Also where a search is to be carried out in a citizens premises, such action is suppose to be backed up by a warrant and where the police who is to carry out such action without a warrant is tantamount to a breach of his fundament6al rights to privacy as provided in section 37 of the 1999 constitution that the privacy of citizens, their homes, correspondence, telephone conversation and telegraphic communications is here by guaranteed and protected. This right guaranteed under section 37 is common violated by police force and SARS majorly in Lagos state and oyo state where they harass a citizen to open his or her phone and if the citizen should refuse on the basis that he or she has a right to privacy, then the police force/SARS will make an unjustifiable arrest. And if out of ignorance and fear, the citizen opens his phone, the police will ruthlessly go through the phone and by doing so there is an infringement of their right to privacy.

This right is also violated when an accused person or a suspect is being forced to give out an information contrary to section 35[2] which states that any person who is arrested or detained shall have the right to remain silent or avoid answering questions until after consultation with a legal practitioner or any other person of his choice. In a bid to extract information from a suspect, they beat such suspect beyond recognition and this act amount to torture, inhuman and degrading treatment as provided in section 34[1][a] that no person shall be subjected to torture or to inhuman or degrading treatment.

My observation; Nigeria adhere to the doctrine of the rule of law, that is, nobody is above the law. But this is not the case with the police force and some or most government officials. They do not follow or obey any traffic rules and they are not arrested since default to adhere to traffic rules and regulations is a strict liability offence but I have not seen or am yet to see a government officials nor the police officials arrested and brought to court for such offences. But it is usually a common man that are arrested as if they do not have equal right with that of the police and government officials. Most police officers do not have or are yet to renew their vehicle particulars or papers while some do not have their plate numbers attached to their vehicle. The police being the guardians of the law are not following the law and they expect the citizens to follow the law.

Everyone has equal right as we are all born free and equal regardless of our tribe, color, sex, ethnic group, culture, religion or place of origin. The view of ethnocentrism, jingoism, chauvinism, super-patriotism and nationalism is against or is an infringement of human right, that is, the right of equality.

**CAUSES**

* Ignorance and illiteracy.
* Lack of proper education.
* Poverty.
* Corruption.
* Bad governance.
* Undemocratic imposition of candidates in leadership.
* Lack of advocacy on human and peoples right.
* Lack of accountability; where a person is not accountable for his action or where a person’s action is not questionable by any authority then the is tendency of human right abuses to occur regardless.

**WAY FORWARD**

* International humanitarian law has been enacted to preserve humanity in all circumstances, even during conflicts. Such law creates areas of peace in the midst of conflict, imposes the principles of a common humanity and calls for a dialogue. It rules out unlimited force or total war and seeks to limit the use of violence in the hopes of maintaining the necessary conditions for a return to peace. Various international committees are in place to monitor compliance with human rights standards and report any abuses or violations. When breaches occur, they are brought to the attention of international court or war crimes tribunal. But conflict sometimes progress beyond the state at which international law can help. As the number of victims grows and more individuals are taken prisoner, tortured or executed, it becomes more difficult to resort to the legal path.
* Human right advocacy should be made in a way of educating or creating awareness of this violations and abuses because some violations are done out of ignorance while some are done because they think they have excess of power in dealing with people. They should be a group of people to promulgate and create awareness on human rights, fundamental human rights and its abuses and violation. Ignorance will not mitigate the level of human rights violations and a proper advocacy and education will help in mitigating the phases of human right violation. Most people do not know their rights and at this basis, some who knows their right tends to take advantage of those who do not
* The judiciary being the last hope of a common man can also be an instrument to which the level of human right abuses are mitigated in the sense of doing justice without fear and favor and also imposing heavy sanctions on defaulters. Public apology and compensation is not adequate to mitigate a breach of the right of liberty [wrongful detention].
* It is my opinion that we should have police services and not police force. The police are suppose to serve the people and if we can adopt what is operating in the united state, that is, we should employ police services and not police forces, the level of which human right are violated will reduce and also in cases of police brutality, they should be a disciplinary committee to check and curtail the excesses of the power exercise by an officer in regards to his duties.

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