

JUDICIAL PROTECTION OF SOCIO-CULTURAL RIGHTS IN NIGERIA*

Abstract

The matrix of rights established the indivisibility and interconnectedness of all human rights, whether civil, political, economic, social or cultural rights, hence the view that all human rights are justiciable. When right to family, food, shelter, culture and good environment are guaranteed, right to life is assured. It is apt to examine the judicial protection of socio-cultural rights in Nigeria in view of the provision of Section 6(6)(c) 1999 Constitution of the Federal Republic of Nigeria (as amended) which renders it non-justiciable. This paper examines concept of socio-cultural rights, reviews the legal framework of socio-cultural rights nationally and internationally, identifies the challenges inhibiting its judicial protection and make recommendations for justiciability of socio-cultural rights in Nigeria.

Keywords: human rights, cultural property, social rights, heritage.

1. Introduction

History of the legal protection of social and cultural rights can be traced to the Universal Declaration of Human Rights, 1948 which guarantee the rights of every member of the society to social security and the realization of the economic, social and cultural rights among others.¹ The 1961 International Covenant on Economic, Social and Cultural Rights (ICESCR) also protects the moral and material interests of authors and inventors as cultural rights. In cognizance of the virtues of African tradition and values the ICESCR gave recognition to the family as the natural unit of the basis of the society and urge states to protect it as such. Articles 22 and 27 provides that each member state shall take steps (to the maximum of its available resources) to achieve in a progressive manner the full realization of the economic, social and cultural rights of its citizens through the creation of a conducive condition for the enjoyment of the so called 'first generation rights'.² To this extent, the effective protection of the 'first generation rights' is enhanced through the advancement of the 'second generation rights'.³ The latter complements the former, as no individual can claim to enjoy the right to life guaranteed under the Constitution if he/she is deprived of good environment, family life and adequate standard of living. This paper is divided into five parts. Part one is the introduction, while part two clarifies relevant concepts, part three examines the legal framework of socio-cultural rights, part four reviews the enforceability of socio-cultural rights while part five concludes by making necessary recommendations for law reform.

2. Conceptual Clarifications

Culture is as old as human existence and every human society has its own socio-cultural system.⁴ It has been argued by Sorokin, that a society cannot exist without a culture. This is because the interplay between society and culture results in individual personality and there can be no personality⁵ without culture and society.⁶ The term culture is derived from the Latin word, *cultura* which initially refers to 'cultivation in farming but was later extended to the cultivation or improvement in individual education'.⁷ By the end of the 15th century the pedagogical sense of culture as mental cultivation was rediscovered hence the distinction between the cultured and uncultured individual. Subsequently, by the late 18th century the contrast 'cultured and uncultured' became applicable in characterizing entire societies.⁸ Encyclopedia Britannica defines culture as the 'integrated pattern of

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¹ Universal Declaration of Human Rights 1948, art 22 and 27.

² The first-generation rights consist of civil and political rights otherwise known as liberty-oriented rights, Emily I Alemika, 'The Non-Justiciability of Chapter II of the 1999 Constitution: Implication for Development in Nigeria' 2011 (1) Benson Idahosa University Law Journal 354.

³ The second-generation rights consist of the economic, social and cultural rights, they are known as security-oriented rights. See AO Obilade, 'Text for Human Rights Teaching in School, Lagos Constitution Rights Projects 1999 103 cited in Alemika (n 4).

⁴ *The New Encyclopaedia Britannica* vol.3 (15th edn, Encyclopaedia Britannica Inc) 784.

⁵ Personality refers to the sum of qualities that shape a person's character, such qualities are derivable from the society itself and its culture in general, CN Venugopal, Society, Culture and Personality in TK Oommen and CN Venugopal (eds) *Sociology* (Eastern Book Publishing Limited) 93.

⁶ *ibid.*

⁷ *The Encyclopedia Americana* (International edn, Grolier Incorporated 2005) 316.

⁸ *ibid.*

human knowledge, belief and behavior, it covers language, customs, work of art, ceremonies, tools, techniques among others'.⁹ However, Burnett Tylor classically defines culture to include all capabilities and habits acquired by man as a member of the society, thereby linking culture with societal norms.¹⁰ Societal norms constitute ways of life through which members of the society are adjudged, a proprietary right embedded in culture. It has however been opined that the sustainable development of culture as societal norm can be enhanced through the continuous relevance of right in properties (tangible and intangible) According to Charles A. Reich 'right in property is a deliberate construction by the society in order to create the kind of society one wish'.¹¹ Thus, the reworking of valuable cultural property such as folk craft, arts, designs and songs in recent times calls for concern.¹²

Generally speaking, cultural rights are rights in cultural property. The concept of cultural right flows from the discourse on tradition as a source of creativity and innovation. Cultural property embraces both the cultural and natural elements of the national heritage, including works generally referred to as 'antiquities'.¹³ It comprise of tangible¹⁴ and intangible properties.¹⁵ Article 15 of the International Covenant on Economic Social and Cultural rights defines cultural rights as rights related to art and culture. In order jurisdiction it has been extended to cover the rights of indigenous community to self-determination¹⁶ (from a socio-economic perspective and not the civil and political dimension such as the right to secede) right to science, and a right to protection of authorship interests.¹⁷ This guarantees the right to participate in and enjoy the benefits of culture and its components in conditions of equality, human dignity and non-discrimination.

Cultural Property as defined in the 1954 Hague Convention means 'movable or immovable property whether secular or religious and irrespective of origin or ownership, which is of great importance to the cultural heritage of a state'.¹⁸ This definition is general in scope and covers both movable and immovable cultural property that are of great importance to the cultural heritage of all people.¹⁹ Cultural heritage, on the other hand, forms part of the culture and identity of a people and may also be tangible or intangible. Buildings, monuments, landscapes, books, works of art, and artefacts are examples of tangible cultural properties while folklore, traditions, language and knowledge form part of the intangible cultural properties of a group, clan, race or nation. Natural heritages which can be the culturally significant landscapes and biodiversity also form part of the cultural properties of any given community.²⁰

⁹ *The New Encyclopedia Britannica* (n 6).

¹⁰ *ibid.*

¹¹ 'The New Property' 43 *Yale Law Journal* 739 cited in NS Gopalakrishnan and TG Agitha, *Principles of Intellectual Property* (2nd edn, Eastern Book Publishing Ltd 2014) 361.

¹² WIPO Publication 785, 'Consolidated Analysis of The Legal Protection of Traditional Cultural Expressions/Expressions of Folklore' <https://www.wipo.int/edocs/pubdocs/en/tk/785/wipo_pub_785.pdf> accessed 13 February 2020.

¹³ Antiquities are objects created long time ago, Nigerian law defines it as 'any object of archeological interest or land on which it is located or any relic of early human settlement or colonization, or any work of art or craftwork . . . of indigenous origin and . . . made or fashioned before the year 1918, or, which is of historic, artistic or scientific interest and is or has been used . . . for the purposes of any traditional ceremony' See FGN Decree 77 of 1979 and *Cambridge Dictionary* <<https://dictionary.cambridge.org/dictionary/english/antiquity>> accessed 17 February 2020.

¹⁴ Tangible cultural property comprises of movable and immoveable cultural heritage such as historic sites, monuments of architecture, art or history, museums among others.

¹⁵ Intangible cultural property covers intellectual products, traditional cultural expressions and traditional knowledge.

¹⁶ Aborigines in Australia.

¹⁷ Right to protection of authorship interest is enshrined in the Nigerian Copyright Act. It is worthy of note that by extension Part II provides explicitly for protection of cultural expressions, an integral part of art and culture.

¹⁸ Protection of Cultural Property: Military Manual, UNESCO Publication available online at <http://iihl.org/wp-content/uploads/2018/01/Military-Manual-EN-FINALE_17NOV-1.pdf> accessed 17 March 2020.

¹⁹ UNESCO, *The Protection of Movable Cultural Property* vol 1 (UNESCO Publication 1984) 17.

²⁰ F Shylon, V Negri, and M Schneider, 'The Role of National and International Legal Instruments in the Protection of African Cultural Goods' (2nd African Congress, October 2009).

As culture influence the way of life of members of the society and guides the society in its affairs, socio-cultural rights are created. Social rights are rights to good education,²¹ housing,²² health services,²³ food,²⁴ employment²⁵ and the right to participate in cultural life and scientific progress²⁶ among others. The concept of socio-cultural rights is a combination of all the rights defined as cultural rights and social rights above, the subject matter of this paper.

3. Legal Framework of Socio-cultural Rights in Nigeria

The legal framework of social and cultural rights in Nigeria derives its root from the Universal Declaration of Human Rights, 1948. Article 27 of the Universal Declaration of Human Rights guaranteed the right of everyone to enjoy the benefits of scientific advancement and cultural rights when it provides that, 'everyone has the rights to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author'. The emergence of social right jurisprudence, (which emphasize role of social factors in directing legal change)²⁷ underscore the need to make government accountable for social and cultural rights in practical terms hence the adoption of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights which further debunked the false assumption that Economic, Social and Cultural Rights (ESCR) are non-justiciable.

Articles 9 and 15 of the International Convention on Economic Social and Cultural Rights (ICESCR) specifically provide for the right of everyone to social security and cultural life when it states, 'that everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancements and its benefits'. The above stated rights are sometimes referred to as the 'creators' right. Creator's right form the basis of government rules and policies to promote creativity and innovation, thereby marking the dawn of a new era in intellectual property protection. Intellectual property law granted monopoly of copyright to creators/authors and balanced it with the right of the society.²⁸ Intellectual property rights are intended to promote public interest hence the limited term of protection conferred on eligible works,²⁹ as well as the provisions for fair use and other exceptions listed under the second schedule of the Nigerian Copyright Act. The aforementioned provisions together with the provisions for compulsory licensing and government copyright are inserted in the Copyright Act to balance the interests of members of the society against individual copyrights.³⁰ Article 15(2) further mandates state parties to undertake necessary steps for the conservation, development and diffusion of science and culture; thereby, giving a human right approach to intellectual property. The above provisions marked the emergence of a partial outline of a human rights framework for intellectual property and the subsequent exploration of the implications of a human right perspective on intellectual property.

Cultural property is legally protected as traditional cultural expressions under intellectual property law regime of some countries, Nigeria inclusive.³¹ The Copyright Act under Part II headed Neighbouring Rights, conferred legal protection on expressions of folklore. Section 31(5) of the Copyright Act³² defines folklore as a 'group oriented and tradition based creation of groups or individuals reflecting the expectation of community as an adequate expression of its cultural and social identity, its standards and values as transmitted orally, by imitations or by other means'.

Traditional cultural expressions, though orally transmitted, reflects a living and evolving culture that is value based and progressive, hence the perception of culture as an economic resource worthy of legal protection.³³ The

²¹ International Convention on Economic Social and Cultural Rights (ICESCR), article 13.

²² *ibid*, article 11.

²³ International Convention on Economic Social and Cultural Rights (ICESCR), article 12.

²⁴ *ibid*, article 11.

²⁵ *ibid*, article 7.

²⁶ *ibid*, article 15.

²⁷ Which dispels the myth of non-justiciability of economic and socio-cultural rights.

²⁸ Gopalakrishnan and Agitha (n 13) 362.

²⁹ Copyright Act, Cap C28 Laws of the Federation of Nigeria 2004, s 1 (now reprinted as 2010) listed Literary Works, Musical Works, Artistic Works, Cinematograph Film, Sound Recording and Broadcasts as eligible works for copyright protection.

³⁰ Gopalakrishnan and Agitha (n 13) 362.

³¹ Part II, of the Nigerian Copyright Act provides for the legal protection of expressions of folklore. See Copyright Act, Cap C28 Laws of the Federation of Nigeria 2004.

³² *ibid*.

³³ WIPO Publication 785, 'Consolidated Analysis of the Legal Protection of Traditional Cultural Expressions/Expressions of Folklore' <https://www.wipo.int/edocs/pubdocs/en/tk/785/wipo_pub_785.pdf> accessed 13 February 2020.

second schedule of the 1999 Constitution of the Federal Republic of Nigeria listed Copyright as a matter within the exclusive legislative list and granted the Federal High Court the power to adjudicate on intellectual property matters generally. Whereas the Constitution of the Federal Republic of Nigeria 1999 (as amended) protects economic, social and cultural rights as directives and policies under Chapter II of the Constitution headed Fundamental Objectives and Directive Principles of State Policy which are non-justiciable, hence the need to examine the non-justiciability of socio-cultural rights.

4. Non-Justiciability of Socio-Cultural Rights

Section 6 (6)(c)³⁴ provides that the judicial powers of courts *shall not extend* to any issue or question as to whether any law or judicial decision is in conformity with the Fundamental Objectives and Directive Principles of State Policy set out in Chapter II of the Constitution thereby ousting the powers of court to adjudicate on matters bordering on social and cultural rights among others. Per Uwaifo JSC gave judicial backing to this ouster clause in the Constitution in the case of *Attorney General of Ondo State v Attorney General of the Federation and 35 others*³⁵ when the Court states:

As to the non-justiciability of the Fundamental Objectives and Directive Principles of State Policy in Chapter II of our Constitution, Section 6 (6)(c) says so. While they remain mere declarations,³⁶ they cannot be enforced by legal process but would be seen as a failure of duty and responsibility of State organs if they acted in clear disregard of them, the nature of the consequences of which having to depend on the aspect of the infringement and in some cases the political will of those in power to redress the situation.³⁷

The Supreme Court further held that Courts cannot enforce any of the provisions of the Fundamental Objectives and Directive Principles of State Policy set out in Chapter II of the Constitution until the National Assembly has enacted specific laws for their enforcement as has been done in respect of Section 15(5) of the 1999 Constitution by the enactment of the Corrupt Practices and Other Related Offences Act, 2000.³⁸ No surprise the Supreme Court in *Attorney General of Ondo & Others v Attorney General of the Federation*³⁹ rightly referred to Chapter II of the Constitution *as mere declarations*, hence the need to examine the non-justiciability of socio-cultural rights. Chapter 2 on Fundamental Objectives & Directive Principles of State Policy⁴⁰ enshrine social and cultural rights and the following social rights featured under the social and educational objectives namely, right to education; right to basic health facilities; right to good environment; right to adequate means of livelihood; reasonable minimum wage; suitable and adequate shelter; old age care; unemployment benefits; and welfare of the disabled, the sick and other vulnerable people. Section 17 of the 1999 Constitution of the Federal Republic of Nigeria⁴¹ provides that the Nigerian state social order is founded on the ideals of freedom, equality and justice and the Government is to ensure: equal rights, opportunities and obligations for all citizens; sanctity of human person; human dignity; exploitation of human or natural resources in any form whatsoever for reasons other than the good of the community shall be prevented; the independence, impartiality and integrity of courts of law and easy accessibility shall be secured and maintained; Citizens shall have equal opportunity for securing adequate means of livelihood without discrimination; adequate opportunities to secure suitable employment; conditions of work are just and humane; ensure adequate facilities for leisure, social, religious and cultural life; ensure that the health, safety and welfare of all persons in employment are safeguarded and not endangered or abused; Ensure adequate, medical and health care facilities for all persons; ensure equal pay for equal work without discrimination on account of sex or any other ground whatsoever; protect young persons and the aged against any exploitation whatsoever and against moral and material neglect.⁴² According to Section 20, the state shall protect and improve

³⁴ Constitution of the Federal Republic of Nigeria 1999 (as amended).

³⁵ (2002) 9 NWLR Pt 772 at 222.

³⁶ This connotes what the Yoruba's of Western part of Nigeria refers to as '*esin inu iwe ti ko le sare*' literally translated to mean the '*picture of a horse in a book which is incapable of running a race*'. In other words, making it a constitutional provision give false hope when in actual fact it is a mere declaration that is non-justiciable.

³⁷ Paragraph A-B at page 382,

³⁸ (2002) 9 NWLR Pt 772 at 343 para D-F.

³⁹ *ibid*.

⁴⁰ 1999 Constitution of the Federal Republic of Nigeria (as amended) Cap C23 Laws of the Federation of Nigeria 2004 now reprinted as 2010.

⁴¹ Cap C23 Laws of the Federation of Nigeria 2004 now reprinted as 2010.

⁴² *ibid*.

the environment and safeguard water, air and land, forest and wild life of Nigeria. By Section 21(a) the state shall *protect, preserve and promote Nigerian cultures which enhance human dignity and are consistent with fundamental objectives*. It further encourages the state to encourage the development of technological and scientific studies which enhance cultural values. By Section 13, it is the duty and responsibility of all organs of government, all authorities and persons exercising legislative, executive and judicial powers to *conform to, observe and apply* the provisions of chapter 2 of the constitution. These rights form an important part of social harmony and when effectively protected they are closely connected and interrelated to other civil and political rights such as right to human dignity, freedom of association, Freedom of thought, conscience and religion. However, section 6 (6)(c) of the 1999 Constitution of the Federal Republic of Nigeria (as amended) provides that the judicial powers of courts *shall not extend* to any issue or question as to whether any law or judicial decision is in conformity with the fundamental objectives and directive principles of state policy set out in Chapter II of the Constitution. This was affirmed in the case of *Archbishop Anthony Okogie v Attorney General of Lagos State*.⁴³ To this end the following violations of socio-cultural rights exists in Nigeria (i) unequal opportunity for securing adequate means of livelihood without discrimination otherwise known as constituency syndrome;⁴⁴ (ii) inadequate job opportunities;⁴⁵ (iii) condition of work not just and humane in most cases; (iv) increase in recruitment of casual and contract staff so as to cut down benefits; (v) inadequate facilities for leisure, social and cultural life;⁴⁶ (vi) inadequate medical and health care facilities among others. To curb these violations, a legal regime of justiciable socio-cultural rights is highly recommended.

5. Enforceability of Socio-cultural Rights: Dividend of Domestication of African Charter

Over the years the English tradition that socio-cultural rights are guidelines and policies of government (which are not enforceable by their nature) inhibits the enforceability of socio-cultural rights in Nigeria. Other factors that hindered the enforceability of SCR in Nigeria includes (i) lack of specific laws that can enhance enforcement of SCR;⁴⁷ (ii) Corruption⁴⁸ (iii) Law Technicalities among others. The recent domestication of the African Charter in Nigeria changed the narratives and gave birth to the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act,⁴⁹ as an Act of the National Assembly. By its domestication, the provisions of the African Charter shall be given full recognition and effect by all 'authorities' and 'persons' exercising legislative, executive and judicial powers in Nigeria.⁵⁰ The Court of Appeal in *Inspector General of Police v All Nigeria Peoples Party*⁵¹ lent credence to this when it held that the African Charter is a statute with international flavor, therefore in the event of a conflict between it and another statute its provisions will prevail. The preamble to the African Charter established the interconnectedness of the first-generation rights⁵² and the second-generation rights.⁵³ Article 17(2) guaranteed rights of every individual to freely take part in the cultural life of the community. Article 18(2), conferred on member states the duty to assist the family (which is the custodian) of morals and traditional values. Article 22 (1) expressly protect the right of everyone to economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind. States have the duty to ensure the right to social and cultural development, among others.⁵⁴ In view of

⁴³ (1981) 2 NCLR 337.

⁴⁴ Constituency syndrome is otherwise referred to in Yoruba language as 'omo wa ni e je o se', meaning 'this is someone from our constituency therefore employ or give him the available post'.

⁴⁵ 59 million young people unemployed worldwide, recently the SSG Boss Mustapha at the Global Youth Employment Forum stated that the Federal Government through the National Social Investment Programme (NSIP) has created over two million direct and indirect employment opportunities and lifted 5 million Nigerians out of poverty through its poverty eradication scheme.

⁴⁶ With the exception of Lagos State and Abuja where government made concerted efforts to provide facilities for leisure and recreation.

⁴⁷ Except intellectual property law which specifically promotes science and knowledge through enhanced creativity and offers legal protection to expressions of folklore under Part II of the Copyright Act, headed Neighbouring Rights, there is no specific legislation on socio-cultural rights in Nigeria.

⁴⁸ See SERAP report on 'Darkness to Darkness (Corruption in Electricity Sector)'; see also SERAP report on 'Stealing the Future (Corruption in Federal Universities)' <<https://serap-nigeria.org/category/publications/>> accessed 13 February 2020.

⁴⁹ Cap A9, Laws of the Federation of Nigeria 2004.

⁵⁰ By this provision any person whose rights have been violated under the Act can enforce his/her rights in Nigerian Courts. See African Charter on Human and Peoples' Right (Ratification and Enforcement) Act, s 1.

⁵¹ (2008) 12 WRN 65.

⁵² The civil and political rights are often referred to as the first-generation rights.

⁵³ The economic social and cultural rights are known as second generation rights.

⁵⁴ African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, article 22(2).

this domestication, Courts in Nigeria have made pronouncement on the enforceability of socio-cultural rights, among others. In the *Registered Trustees of the Socio-Economic Rights & Accountability Project v Federal Republic of Nigeria*⁵⁵ the court held that the argument that the right to education is non-justiciable under the Nigerian law as it falls within the directive principles of state policy cannot hold since the application before the court was for the enforcement of the right to education under Article 17 of the African Charter on Human and Peoples' Rights and not a breach of the right to education under Chapter II of the 1999 constitution. Recently, the Court of Appeal in the case of *Inspector General of Police v All Nigeria People's Party*⁵⁶ decided that individual rights under Articles 2, 4, 5, 6, 7(1), 9(a) and 26 of the African Charter on Human and Peoples' Rights are enforceable and justiciable in Nigerian Courts. Also, the decision of the Court of Appeal in *Ubani v Director SSS*⁵⁷ where the Court held that the African Charter has entrenched the socio-economic rights of a person and enjoined the courts to ensure the observance of these rights will by extension renders socio-cultural rights justiciable in Nigeria.

6. Conclusion and Recommendations

In conclusion, the requirement of the legal protection of socio-cultural rights as human right is a laudable idea of modern times. There is however, the need to strike an appropriate balance between human right treaties/values and existing national and international intellectual property protection systems – a balance that promotes compliance with the treaty obligations and the underlying values of human rights law as well as a coherent interface with existing national and international intellectual property protection systems. To this end it is appropriate to designate socio-cultural rights as a right and not just a policy or directives especially with the domestication of the African Charter on Human and Peoples Right in Nigeria. In line with decision of the Court in *Attorney General of Ondo State and others v Attorney General of the Federation*⁵⁸ it is apt that the National Assembly enact specific laws on each of these social and cultural rights that can be legislated upon so as to render them enforceable, as recommended by the Court when it states:

We do not need to seek uncertain ways of giving effect to the Directive Principles in Chapter II of our Constitution. The Constitution itself has placed the entire Chapter II under the Exclusive Legislative List . . . all the executive principles need not remain mere or pious declarations. It is for the Executive and National Assembly, working together to give expression to any one of them through appropriate enactment as occasion may demand.⁵⁹

Another way out is to give effect to the provisions of Chapter II of the Constitution through other enactments that are in close relation with it. For instance, the Supreme Court of India in order to enforce the rights of its citizens to livelihood, held in the case of *Olga Tellis v Bombay Municipal Corporation*⁶⁰ that an important facet of the right to life is the right to livelihood, if the right to livelihood is not treated as part of the constitutional right to life it is impossible to live. Also, in *UPSE Board v Harri Shanker*⁶¹ the court re-affirm that right to education is an intrinsic part of the right to life and further that the objectives and directives provide a basis for judicial activism in the promotion of social justice. Uwaifo in above case cited the activation of section 15(2) and 16(2)(d) as example in line with decision of Constitutional Court of South Africa in *Cape Metropolitan Council and another v Irene Grootboom and others*.⁶² To this end, the following recommendations to the National Assembly for law reform are very appropriate: Amend Section 6 (6)(c) to read shall extend to . . . , delete 'not'. Delete 'as and when practicable' from Section 18 (3) 1999 Constitution so that state and federal government can be duty bound to provide free education up to tertiary level. Designate socio-cultural objectives as a 'right' and not just a policy or directives. Ratify and domesticate the optional protocol to the ICESCR. Finally, we should all say 'NO' to corruption and decide not to join the 'corruption bandwagon'. It is the responsibility of every member of the society to protect socio-cultural right. Since cultural expressions of folklore (among others) are communally

⁵⁵ Suit No: ECW/CCJ/APP/0808, 28 October, 2009 reported in *Compendium of African Sub-Regional Human Rights Documents* (Pretoria University Law Press 2010) 298.

⁵⁶ (2008) 12 WRN 65.

⁵⁷ (1999) 11 NWLR Pt 625 at 129.

⁵⁸ (2002) 9 NWLR Pt 772 at 222.

⁵⁹ Per Uwaifo JSC in page 391 paras F-G.

⁶⁰ 38 ALR 1968 Sup Ct 180 (App 6).

⁶¹ (1999) AIR SC65.

⁶² (2001) 1 CHR 261.

owned, it can be enforced through public interest litigation therefore Nigerian courts should deepen its progressive attitude to public interest litigation in order to reform existing law.⁶³

⁶³ Public interest litigation is legal practice undertaken in the interest of the public-in this instance cultural rights which is communally owned can be adjudicated upon through public interest lawyering.