

COVID-19 RESTRICTIONS AND REPERCUSSIONS ON HUMAN RIGHTS IN NIGERIA: AN APPRAISAL*

Abstract

The corona virus is a global pandemic as declared by the World Health Organization in December, 2019. Nigeria was not spared the unwavering effects of this global threat. The pandemic heightened the economic, security and good governance challenges facing the country. The preparedness or otherwise of government to face this pandemic was an issue in the face of a dilapidated health sector, corruption, arms conflict etc. All these coupled with the measures adopted by the government to fight the global pandemic proved a direct affront on human rights in Nigeria. This paper looks into the various impacts of Covid-19 on human rights and the anti-human rights measures taken by government to curb the pandemic. It proffered some alternative measures in the interest of human rights in the fight against COVID-19 in Nigeria. To achieve this feat, the paper explored secondary sources, internet sources and existing international, regional and local laws on pandemic. At the end of this discourse, it concludes that human rights supersedes political privileges and powers and must be respected at all times. Based on this fact, it recommends that all key players should ensure the emergency measures assumed by government in the COVID-19 response conform to the international benchmark for human rights standards, amidst other things.

Keywords: COVID-19, Corona Virus, Human Rights, Pandemic, Infectious Disease, Epidemic

1. Introduction

The "2019 novel corona virus" popularly known as Covid-19¹ is a severe acute respiratory syndrome caused by the corona virus. It was first identified in some suspected pneumonia patients in Wuhan, China and officially declared a pandemic by the World Health Organization (WHO) on the 31st of December, 2019.² It is a new virus associated with the family of the SARS³ virus. It mostly affects the human lungs⁴ and has similar symptoms of pneumonia or the common cold.⁵ Its lethal outcomes include some lower-respiratory tract diseases, like bronchitis and pneumonia and in an extreme case an Acute Respiratory Distress syndrome (ARDs) and Acute Respiratory Syndrome (SARS).⁶ The disease is most severe in the elderly, infants and patients with some underlying health conditions such as cardiopulmonary diseases and *immuno*-compromised cases.⁷ It is known to have claimed 4, 771, 408 lives and 233, 136, 147 confirmed cases globally as at 29 September 2021,⁸ and it is still ravaging some parts of the global.⁹ Many countries of the world had to gather their resources, both financially and intellectually to fight the global menace as it posed a common threat to humanity at large. Experts cautioned on the danger of the disease spreading in Africa due to the continent's close trade connections with Beijing, China and its vulnerable health sector. African countries are well known for their poor economy and fragile health sector. So, it was a cause for concern how the continent will cope should the outbreak escalate, as it was in some developed countries at the international scene.¹⁰ Before long, the pandemic found its way into Nigeria, one of the most densely populated and very busy countries on the African continent. Nigeria has an estimated population of over 200 million people out of which is estimated to be about 6.4 million elderly population of age 65 years and above, aside other vulnerable groups such as infants and persons with pre-existing health conditions like high blood pressure, cancers, diabetes, asthma and other cardiovascular diseases.¹¹ This coupled with the earlier prediction that Africa would be worse off by the end of the epidemic, made the Nigerian government to employ some stringent measures to fight the epidemic.¹² The worldwide pandemic hit Nigeria on 28 February, 2020, when the index case was announced by the Nigerian Centre for Disease Control (NCDC).¹³ Like other African countries, COVID-19 uncovered the many deficiencies in the health sector, economic sector and the extent of

*By Glory Omonigho OZURU, B.A. (Hons.), LLB (Hons.) (RSU), BL, LLM, PhD Candidate; Lecturer, Faculty of Law, University of Port Harcourt, Nigeria. E-mail: glory.law42@gmail.com/glory.ozuru@uniport.edu.ng; and

*Coleman Thompson ONYENAJUA, Lecturer, Department of Private and Property Law, University of Port Harcourt, Rivers State, Nigeria. E-mail: onyenajua.coleman@uniport.edu.ng.

¹ The name COVID-19 was issued by WHO on the 11 February, 2020.

² COVID-19: common Questions, available at <<https://en.m.wikipedia.org>> accessed on 25/8/2021.

³ Severe Acute Respiratory Syndrome.

⁴ 'Naming the corona virus disease (Covid-19)', available at <<https://www.who.int>> accessed 25/8/2021.

⁵ Symptoms include severe fever, respiratory symptoms, cough, breathing difficulties and shortness of breath, all of which may end in the death of the victim.

⁶ World Health Organization (WHO). Corona. WHO; 2020 available at <<https://www.who.int/health-topics/coronavirus>> accessed 23/8/2021.

⁷ Centre for Disease Control Prevention (CDC), Human Coronavirus Types. National Center for Immunization and Respiratory Disease (NCIRD), Division of Viral Diseases, January 10, 2020 available at <<https://www.cdc.gov/coronavirus/types.html>> accessed on 25/8/2021.

⁸ 'WHO Corona (COVID-19) Dashboard', available at <<https://covid19.who.int>> accessed 1/10/2021.

⁹ Recently, India was thrown into a near helpless situation.

¹⁰ The outbreak was most severe in China, Italy, United States of America and recently India to mention but a few.

¹¹ The Economist. COVID-19's death toll appears higher than official figures suggest, 2020, available at <<https://www.economist.com/graphic-detail/2020/04/03/covid-19s-death-toll-appears-higher-than-official-figures-suggest>> accessed on 25/8/2021.

¹² Ibid.

¹³ The first case was that of an Italian who works in Nigeria and came back from Milan, Italy to Lagos, Nigeria on the 25 February 2020 and was confirmed by the Virology Laboratory of Lagos University Teaching Hospital, which a part of the Laboratory Network of the Nigeria Centre for Disease Control (NCDC).

corruption in Nigeria to the whole world. Although, there was some philanthropic moves to assist government by way of providing palliatives, ambulatory services and some improvised facilities to cushion the effect and assist both government and the people but these were greatly hoarded as the people at the grassroots were denied these services.¹⁴ The COVID pandemic plunged the country into a state of emergency, of which the country is still struggling to overcome.

Nigeria was evidently not prepared to face such a pandemic. Early in 2020, WHO's International Health Regulations (IHR) Emergency Committee warned that the world should get ready to contain a global pandemic.¹⁵ This is coming three years after WHO's assessment by its Joint External Evaluation (JEE) of International Health Regulations (IHR) core capacities,¹⁶ wherein Nigeria scored very low both in prevention and response.¹⁷ From the performance of Nigeria in the WHO rating, it is a serious indicator that the country is not prepared to counter the COVID-19 pandemic,¹⁸ as seen in the low testing rates for COVID-19 in Nigeria, with a capacity to test just 2,500 samples per day, due to dearth of human resources, poor laboratories, and lack of testing kits. This no doubt prioritizes the symptomatic over the asymptomatic cases and their contacts.¹⁹ Nigeria is not only deficient in human resources but in health tools and outfits, funds and technical know-how, as a result of corruption and governments inability to prioritize health above other commitments. This paper sought to study the legal protection of citizens during a state of emergency such as a public health emergency, the measures taken by government to fight the menace as well as its consequences on the fundamental human rights of the people.

2. Legal Framework for the Protection of Citizens in Times of State Emergencies and Public Health Emergencies

According to the Chambers 20th Century dictionaries, a state of emergency is the suspension of normal law and order for a strict or unusual control by the government on the people.²⁰ A state of emergency is any extraordinary circumstance, which poses a primary threat to the nation. Such condition may suspend the normal functions of government, and may send a signal to the citizens to change their normal way of live, or cause government and its agencies to put into action some emergency arrangements and to minimize or postpone some civil liberties and fundamental rights of the people.²¹ A state of emergency may arise from certain adverse conditions like an armed invasion against the state, either from internal or external factors, a civil unrest, a natural disaster, an economic disaster, a general strike action, or an epidemic.²² It is not an uncommon happening, especially, in tyrannical regime, for such a state of emergency to continue to the end of the regime. In an emergency situation, government is given the power to make regulations expedient to restore peace, order and facilitate an end to the emergency. Such power can be delegated to other authorities and may alter the Bills of Rights to an extent,²³ although, this can be contested in court in a democratic setting. A state of emergency has two parts; a legal framework for the constitutional and legislative stand for the state of emergency; and a functional framework depicting the organizational and strategic structure for handling such a state of emergency. Although, these measures are separate but they must be compatible and complimentary one with the other for an effective outing. Also, the legal framework must include the international provisions for such a state of emergency.²⁴ The legal framework must take into account the democratic accountability, rule of law and human rights all through the emergency.²⁵ For such emergency laws to be effective, there must be some restrictions on the normal functioning of the civil, political and economic activities, as well as on rights, in order to adequately deal with the unusual circumstance, which must have given rise to that. Thus, in a state of emergency, certain restraints are justified.²⁶ But the danger is that the government may want to take advantage of the situation to initiate some restrictions, which may undermine human rights and civil liberties, for some selfish purposes, which

¹⁴ *Ohia*, n 11.

¹⁵ COVID-19 Public Health Emergency of International Concern (PHEIC). On January 30, 2020, WHO Director General, declared COVID-19 a public health emergency of international concern, available at <<https://www.who.int>> accessed 27/8/2021.

¹⁶ An independent, collaborative multi-sectoral effort to assess a country's capacity to prevent, detect, and respond to public health risks.

¹⁷ Nigeria's average score of 1.9 across the 15 JEE indicators in the *prevent* category suggested that overall there was limited capacity to prevent biological, chemical, or radiation health risk. The country was better prepared in the *detect* category, with an average score of 2.6 across the 13 indicators in this category. This score shows that the country has developed some capabilities to detect new health risks through real-time surveillance, and laboratory capabilities to test the diseases. But, the sustainability of these capabilities is still in doubt. Nigeria performed badly in the *respond* category, with an average score of just 1.5 across the 20 indicators in this category, suggesting that the country has limited capacity to respond to a sudden health risk. See, data from World Health Organization, 2017.

¹⁸ *Ibid*, World Health Organization, 2017.

¹⁹ According to Worldometer, 2020, as at June 30, 2020, Nigeria had tested only 138, 462 samples out of a population of 200 million, in contrast with South Africa, of 58 million people, with 1,630,008 persons tested.

²⁰ Chambers 20th Century Dictionary (Revised Edition) Edinburg Chambers, Publishers Ltd 1996, 1375.

²¹ 'States of Emergency,' Geneva Centre for the Democratic Control of Armed Forces, 2005.

²² *Ibid*.

²³ Article 4, ICCPR.

²⁴ *Ibid*.

²⁵ *Ibid*.

²⁶ International human rights law guarantees everyone the right to the highest attainable standard of health and obligates states to take steps to prevent threats to public health and to provide medical care to the sick. Human Rights law also recognizes that in the context of serious public health threats and public emergencies threatening the life of the state, restrictions on some rights is justified when they have some legal basis, are strictly necessary, based on scientific evidence and is neither arbitrary nor discriminatory in application, is of a limited duration, respectful to human dignity, subject to review, and necessary to achieve the aim.

ordinarily would not have been easy to justify under normal situations. In some cases, such an emergency may be unduly prolonged beyond what is necessary. According to the *Geneva Centre for the Democratic Control of Armed Forces*, certain essential principles must be respected during an emergency.²⁷ This is indicated in the 1999 Constitution.²⁸ The Nigerian Constitution provides for the imposition of a state of emergency in Nigeria or any part of it thereof, through the official gazette under certain conditions.²⁹ The declaration of a state of emergency is based on public order, security and safety concerns. The COVID-19 pandemic could as well fall under section 305 (e) as a natural calamity and grave threat to the nation at large. The Federal government imposed restrictions, which were binding on each state of the Federation. In the case of *A.G. of Anambra State v. A.G. Federation & 35 Ors*,³⁰ the Supreme Court of Nigeria held to the effect that the powers of State governors are subject to the final dictate of the President. Thus, States are not only bound by the restrictions of the Federal government but must make other individual restrictions subject to the Federal orders. This was not far from an earlier decision in *Adegbenro v. Akintola. & Anor*.³¹ It was a case of the validity of the powers of the Governor of Western Nigeria to remove the Premier of Western Nigeria from office without recourse to the House of Assembly and the Privy Council. This appeal was affirmatively reversed by the Supreme Court. The COVID-19 epidemic was no doubt a perceived natural threat, which is enough to treat as a state of emergency, requiring strict measures to handle for the sake of public safety and public health. It was nothing more than a global war. However, while individual nations may want to delineate their own practices or patterns to fight the war, international norms could provide some useful guide.

There are significant international and regional legal norms such as the *International Covenant on Civil and Political Rights* (ICCPR)³² and the *European Convention of Human Rights and Fundamental Freedoms* (ECHR),³³ which insist that state parties should observe certain essential principles,³⁴ such as *Exceptional threat*- the emergency must be a real, existing or imminent danger to the society; *Temporality*- the state of emergency must be of an exceptional nature; *Proportionality*- the measures to be adopted to fight the threat must be proportional to the severity of the emergency, in terms of its applicability, duration and substance; *Communication*-other state parties and relevant treaty-monitoring bodies must be notified of measures taken. For instance, where a state is to shift from its obligations under the ICCPR or the ECHR, it must inform the Secretary-General of both the ICCPR and ECHR of its decision and reasons for its derogation; *Declaration*- the state of emergency must be announced publicly to inform citizens of the situation.³⁵ This is to prevent restrictions on human rights without an official proclamation of a state of emergency; *Intangibility*- This has to do with certain fundamental rights which could not be derogated at any point in time, not even during the period of emergency. This include; the right to life;³⁶ prohibition from torture;³⁷ freedom from slavery and servitude;³⁸ right to recognition before the law; freedom of thought, conscience and religion; freedom from retroactive penal legislation;³⁹ the principle of *ne bis in idem* or double jeopardy;⁴⁰ and other judicial guarantees; *Legality*- this upholds the fact that human rights and fundamental freedoms must be respected at all times even in a state of emergency according to international, regional and local laws. In addition, a state of emergency does not mean the suspension of the rule of law nor does it encourage arbitrary actions nor offends the principle of legality, which bounds states at all times.

In addition to these inviolable rights, the United Nations Human Rights Committee⁴¹ has expanded these rights to include certain other humanitarian conditions, which remains inviolable at all times, these are; minority groups must

²⁷ Geneva Centre for the Democratic Control of Armed Forces, available at <<https://www.giplatform.org>> accessed 12/11/2021.

²⁸ Section 305 (1) of the Constitution of the Federal Republic of Nigeria, 1999, which provides that "subject to the provisions of this Constitution the President may by instrument published in the official Gazette of the Government of the Federation issue a proclamation of a state of emergency in the Federation or any part thereof."

²⁹ Section 305 (3)(a) to (g); where (a)the Federation is at war; (b) the Federation is in imminent danger of invasion or involvement in a state of war; (c) there is actual breakdown of public order and public safety in the Federation or any part thereof to such extent as to require extraordinary measures to restore peace and security; (d) there is a clear and present danger of an actual breakdown of public order and public safety in the Federation or any part thereof requiring extraordinary measures to avert such danger; (e) there is an occurrence or imminent danger, or the occurrence of any disaster or natural calamity, affecting the community or a section f the community in the Federation; (f) there is any other public danger which clearly constitutes a threat to the existence of the Federation; or (g) the President receives a request to do so in accordance with the provisions of subsection (4) of this section.

³⁰ (2005) 9 NWLR (Pt. 93), 572.

³¹ (1963) 3 WLR 63.

³² Article 4, International Covenant on Civil and Political Rights (ICCPR).

³³ European Convention on Human rights available at <www.hri.org/docs/ECHR50.html> accessed 28/8/2021.

³⁴ *Supra* n 24.

³⁵ This may be China's error in not declaring timely its state of emergency to the world, thereby, allowing the pandemic to spread to a global epidemic, which claimed and is still claiming lives all over the world. The People's Republic of China is under an international obligation to disclose their public emergency situation to other state parties.

³⁶ Article 2, ECHR.

³⁷ Article 3, ECHR.

³⁸ Article 4(1), ECHR.

³⁹ Article 7, ECHR.

⁴⁰ Article 4 of Protocol No. 7 to the Convention (ECHR).

⁴¹ Article 4, UN Human Rights Committee (HRC), CCPR General Comment No. 29: Derogations during a State of Emergency, 31 August, 2001, CCPR/C/21/Rev. 1/Add.11, Adopted at the Seventy-second Session of the Human Rights Committee, available at <<https://www.refworld.org/docid/453883fd1f.html>> accessed on 29/8/2021.

be protected at all times; persons deprived of liberty must be given humane treatment at all times; hostage-taking and unacknowledged incarceration must be prohibited at all times; the integrity of the judiciary must be guaranteed at all times; and; national propaganda advocating war, religious or racial hatred must be prohibited at all times. Also, special powers are allowed the government through the Constitution and other legislations in times of state of emergency, in form of emergency measures to curtail the situation. These include; domestic use of armed forces; mass removal of people from homes and work place; control of press freedom and ban of public gatherings; conducting searches of private places including homes without warrant and arresting without charges; making special regulations to punish non-compliance with emergency rules; interference with private enterprises including financial transactions; and taking away private property with or without compensation. In addition, the *Siracusa* Principles on the Derogation Provisions in the ICCPR, as adopted by the UN Economic and Social Council of 1984,⁴² accords states the authority to respond to emergency by restricting human rights in a situation of public emergency or public health. So any measures adopted to protect the people, even if it limits the people's rights and freedoms is lawful and proportionate. However, such state of emergency must not be extensive and any limit to rights must take into account the unfair impact on vulnerable groups. It was in this light that some UN Human rights experts advised that the COVID-19 pandemic should not be an excuse to aim at particular persons, the vulnerable, and minorities.⁴³

All international and regional norms protect people both in normal functioning of the state and in times of state emergencies.⁴⁴ All of these legal principles recognize the right of States to employ derogatory measures in times of state emergency. It is trite that emergency situations are inevitable. This could be in the form of wars, severe societal upheavals, or health emergencies and such condition may warrant some emergency measures in order to restore peace and order. Such measures no doubt, may limit the normal enjoyment of rights and freedoms. The ICCPR makes room for such extraneous conditions.⁴⁵ By this, state parties are excused to employ derogatory measures in times of emergency. Similarly, the American Convention on Human Rights⁴⁶ and the European Convention on Human Rights⁴⁷ provide for state of emergency, so also, the Universal Declaration of Human Rights (UDHR)⁴⁸ and the European Social Charter.⁴⁹ It is only the International Covenant on Economic, Social and Cultural Rights (CESCR), which rarely took into cognizance any state emergency but, which provides that every human being has the right to the highest attainable standard of physical and mental health,⁵⁰ and it went on to place an obligation on the state to take steps to prevent, treat and control an epidemic. Also, it is recognized that the right to health is dependent on the realization of other human rights.⁵¹ It is left for states to apply their own personal terms in their local laws.⁵²

At the local scene, the right to health is protected by the Constitution.⁵³ Nigeria is one of the countries with a constitutional framework for state of emergency powers.⁵⁴ The President has the power to declare a state of emergency, published in the Official Gazette, where the nation is faced with war; where there is an imminent danger involving a state of war; where there is a breakdown of law and order; where there is a situation of public danger or natural disaster; or where the President receives an emergency request from any of the state governors, which has been authorized by a majority of the House of Assembly.⁵⁵ Such powers are often subject to abuse, thus, the Constitution provides some constitutional safeguards to monitor and check such abuses. The Nigerian Constitution provides checks on emergency powers of the executive by subjecting such powers to the approval of the legislature. Both the Senate and the House of Representatives must sit and deliberate on any declaration by the President. They either consider and

⁴² Article 12, UN Human Rights Committee (HRC), CCPR General Comment No.27: (Freedom of Movement), 2 November, 1999, CCPR/C/21/Rev.1/Add.9, Adopted at the sixty-seventh session of the Human Rights Committee, on 2 November 1999. CCPR/C/21/Rev.1/Add.9, General Comment No. 27. (General Comments) (Contained in document CCPR/C/21/Rev.1/Add.9), available at <<https://www.refworld.org/docid/45139c394.html>> accessed 29/8/2021.

⁴³ "Covid-19: States should not abuse emergency measures to suppress human rights-UN experts," Geneva (16 March 2020).

⁴⁴ These include the International Covenant on Civil and Political Rights, 1966; International Covenant on economic, Social and cultural rights, 1966; International convention on the Elimination of All Forms of racial discrimination, 1965; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984; Convention on the Elimination of All Forms of discrimination against women, 1979; and Convention on the Rights of the Child, 1989. There are also the African Charter on Human and people's Rights, 1981; American Convention On Human Rights, 1969; Inter-American Convention to Prevent and Punish Torture, 1985; Inter-American Convention on Forced Disappearance of Persons, 1994; European Convention on Human Rights, 1950; and European Social Charter, 1961, and European Social Charter (Revised) 1996.

⁴⁵ Article 4, ICCPR.

⁴⁶ Article 27, ACHR.

⁴⁷ Article 15, ECHR.

⁴⁸ Article 29, UDHR.

⁴⁹ Article 30 (Part V, article F of its revised version.

⁵⁰ Article 12, CESCR General Comment No. 14.

⁵¹ According to the Bill of Rights, these such rights include the right to food, work, housing, education, life, human dignity, equality, non-discrimination, prohibition against torture, access to information, privacy, and freedom of movement, association, and assembly, etc. All of these rights and more freedoms guarantee the right to life.

⁵² Terms such as "martial law"; "state of exception"; "state of emergency"; state of siege"; or "state of alarm". See, Chapter 16 of the Administration of Justice During States of Emergency," In, "Human rights in the Administration of Justice: A Manual on Human Rights for judges, Prosecutors and Lawyers,"

⁵³ Section 20 under Chapter II of the 1999 Constitution.

⁵⁴ *Ibid.*

⁵⁵ The Constitution provides a closed list which means it does not admit of circumstances that are not listed.

approve or reject such declarations.⁵⁶ If the legislature rejects the resolution, then it ceases to exist immediately.⁵⁷ The Constitution expressly provides for legislative approval and assent but not that of the judiciary, although, the Constitution allows certain measures in times of emergency, which are reasonably justifiable to deal with the situation.⁵⁸ So by determining what is "reasonably justifiable" the judiciary plays its important role in a period of emergency. Besides the Constitution, the Emergency Powers Act of 1961 also provides the procedure for proclaiming a state of emergency.⁵⁹

There was a partial state of emergency in Nigeria during the COVID-19 war. State of emergency was declared in parts of the country not all over the country.⁶⁰ Though, the Covid-19 epidemic is enough to be treated as a state of imminent danger as anticipated by the Constitution, but government did not regard it as such a danger to warrant invoking a state of emergency under section 305. It is true that although, a state of emergency was not declared, but some other emergency measures were set up to fight the pandemic. Notwithstanding, the President deployed his emergency powers under the existing Infectious Diseases Law,⁶¹ to prevent the spread and transmission of infectious diseases, as well as, enact regulations for this purpose. It was in pursuance of this Act that the President issued the first regulation, to declare COVID-19 a dangerous infectious disease.⁶² This led to the lockdown orders in some states.⁶³ This action of the President is rather controversial because the powers provided by section 305 of the Constitution are not quite same as that provided by the Quarantine Act. While the former provides for a state of emergency, the latter provides emergency powers to make regulations under the Quarantine Act. The former demands legislative approval while the latter is merely an executive task. By the latter, some rights were suspended with no room for a legislative approval.⁶⁴ The lockdown was to keep the people at home for identifying, tracing and isolating infected persons, with the exception of persons on essential duties like health workers and journalists. Meanwhile, the seaports continued to function while the airports were shut down. The Regulation also made some relief provisions to alleviate the sufferings of the masses. At the end of the first 14 days, another 14 days was given, this is besides the various lockdowns imposed by the individual states to run side by side with that of the federal government. Whether government acted in public interest remains doubtful.

The Quarantine Act, 1926 from where the President derived the powers to institute the Regulations is old and subject to much disapproval. So the COVID-19 emergency was an opportunity for the legislature to repeal and re-enact the Act. The 1926 Act was therefore replaced by the Control of Infectious Diseases Bill, 2020 (the Bill). The Bill on its own is flawed with many issues bothering on constitutionalism and the rule of law. For instance, the Bill endows a tremendous power to the unelected executive by giving excess powers to the Minister of Health and the Director-General of the NCDC.⁶⁵ The Minister of Health has the power to declare any location an isolation area.⁶⁶ This gives the Minister unlimited powers to confiscate private property for isolation areas with no prerequisite for compensation or apology. And it went on to grant the DG of NCDC overbearing powers to restrict movements around such isolation area.⁶⁷ Also, the Bill empowers enforcing officers to act without warrant or with force where necessary, to restrain, arrest, search and detain people in the course of enforcing the Act.⁶⁸ Again, the Bill did not give room for human rights.⁶⁹ It encourages contact tracing and mass surveillance, thereby, offending the right to privacy of the people.⁷⁰ In addition, the Bill renders the DG and law enforcement agents unaccountable in their exercise of powers provided under the Bill.⁷¹ Perhaps, the only check available to monitor such powers is that it must be carried out in good faith and with reasonable care. These, plus the fact that the decision of the DG to prohibit public gatherings could only be appealed to the Minister of Health, whose decision is final and the only checks on the enforcers, which of course are vague and evasive. Constitutionally, the Bill was in error as it was initiated by the legislature and hurried through the

⁵⁶ Section 305(2), CFRN.

⁵⁷ Section 305(6), CFRN.

⁵⁸ Section 45(2), CFRN.

⁵⁹ In 2016, there was a Bill before the legislature to repeal the Emergency Powers Act, 1961 (the Repeal Bill, 2016). The exact state of that Bill is at the moment not clear because no evidence that it has been passed into law by the legislature.

⁶⁰ The most recent use of emergency powers was in 2013 by the then President Goodluck Jonathan when he declared a state of emergency in the North-east due to the activities of the *Boko Haram* insurgents. Government however rejected calls to declare a state of emergency during the *Ebola* epidemic.

⁶¹ The Quarantine Act 1926.

⁶² COVID-19 Regulations, 2020.

⁶³ Lagos, Abuja and Ogun States.

⁶⁴ For instance, inter and intra state movements in the affected states were prohibited for an initial period of 14 days and security agents were detailed to strictly monitor and enforce the lockdown order. This turned out to be in the good of these security agents who made fortune out of the masses at the bothers and every point within the state.

⁶⁵ This is seen by the excessive use of the phrases "in his discretion" "where he thinks fit" or "suspects" etc.

⁶⁶ Section 15 of the Control of Infectious Diseases Bill 2020.

⁶⁷ Section 15(3) (a-f).

⁶⁸ Section 58 grants a police officer powers to arrest anyone without warrant in so far as he reasonably believes that such a person has committed an offence under any of the sections of the Bill.

⁶⁹ For instance, section 20 of the Bill restricts the right to freedom of Assembly and Association by limiting meetings, and other public gatherings. It also empowers the law enforcements agents to take any necessary action to prevent public gatherings, where it appears that such gathering may increase the spread of an infectious disease.

⁷⁰ Sections 14 and 19 of the Bill.

⁷¹ Section 72 of the Bill.

first and second readings, without any prior copy to the legislative. In as much as the Bill was to limit an epidemic, it must not be done without consideration to the rule of law; and human rights must not be forfeited in the process, which is inevitable where emergency powers are exercised without a declaration of a state of emergency.⁷² As far as the making of the Bill is concerned, government failed to adequately balance its emergency legal reactions to the need to guard public health along with other demands of the people, especially, in the area of food for the common man.

Both chapter II and chapter IV of the Constitution provide for human right.⁷³ The right to health is dependent on the enjoyment of some of the rights under chapter IV. In its bid to fight the pandemic, the Nigerian government directly and indirectly violated all fundamental rights of its citizens. Suffice to say that whether in peace time, war times or in times of state emergencies, human rights are most violated by government and its agents, with impunity.⁷⁴ Thus, COVID-19 pandemic became another excuse for maltreatment of the citizens.

3. Nigeria's Response to the COVID-19 Pandemic

The Nigerian government adopted many economic, social, health and policy measures to mitigate the impact of COVID-19 in the country.⁷⁵ These measures are in the form of economic stimulus package through the Economic Stimulus Bill, 2020;⁷⁶ cash transfers;⁷⁷ Central Bank of Nigeria stimulus package;⁷⁸ and food assistance in form of palliative to assuage the suffering of the people.⁷⁹ Other measures include series of lockdowns both at the federal and state levels as the cases of infection and casualties increased.⁸⁰ There were also partial lockdowns on interstate borders. Dawn to dusk curfews were introduced in some states of the country. In order to cushion the hardship posed by the lockdowns and curfews, the federal government adopted some palliative measures for some vulnerable groups, which turned out to be highly politicized and never in reality got to the masses.⁸¹ All the same, part of the palliative measures was the introduction of three months interest loans to traders and farmers.⁸² Unfortunately, none of these measures was genuinely deployed to the masses as it was variously alleged that the distribution of these incentives and reliefs was greatly politicized and embezzled by government officials and politicians deployed to make them available to the people.⁸³ There are cases where government agencies were noted to have shared monies and COVID-19 reliefs and lame efforts to probe them by the lawmakers proved abortive.⁸⁴ Meanwhile, the Federal government earlier made it clear that the palliatives were for the most vulnerable of the society. There were no laid down benchmark for deciding who the most vulnerable are since many citizens claimed they were not aware that there were palliatives in their area in the first place. Politicians, who now turned out to be the most vulnerable, hijacked the exercise both at the federal, state and local government levels. Hunger and frustration killed more people than the virus itself.⁸⁵ The question the federal government is yet to answer is "who are the vulnerable?" and "Who are the poor of the poor" in

⁷² Powers deployed in a state of emergency are subject to checks and controls. This is not the case where power is derived from a legislation such as the Control of Infectious Diseases Bill, where the unelected executive exercises absolute powers.

⁷³ Sections 13 - 24 (Chapter II) and sections 33 - 46 (chapter IV).

⁷⁴ 'Nigeria- Amnesty International USA' available at <<https://www.amnestyusa.org-nigeria>> accessed 2/10/2021.

⁷⁵ Although, the measures taken are weak and profitless to the people.

⁷⁶ The House of Representatives passed the Emergency Economic Stimulus 2020 to provide support to small scale businesses. This law aims at roving 50% rebates to businesses, which are registered under the Company and Allied Matters Act(CAMA), so they can use it to continue to maintain their employees. Since many businesses are not registered under CAMA, it was difficult for them to get these benefits.

⁷⁷ On April 1, 2020, government announced that it will make transfers of N20, 000(\$52) to the poor and vulnerable households registered under the National Social Register (NSR). Again, not too many households are registered under the NSR and so only a limited number benefited from the scheme. Due to challenges in making electronic transfers, not all of those registered on NSR could get the money, more so, as only very few Nigerians actually have a bank account.

⁷⁸ The Central Bank of Nigeria (CBN) offered some stimulus package in form of interest free loans to poor households. This was hijacked by community leaders in whose custody it was given. Also, lack of awareness has denied many households of these opportunities as not many households know about these measures.

⁷⁹ After the federal government imposed the initial lockdowns on Lagos, Abuja, Ogun States, in April 2020, the Federal Ministry of Humanitarian Affairs Disaster Management and Social Development announced that it will provide food for the vulnerable households in these states. But, as usual, lacked transparency and accountability as it was characterized by corruption poor accountability from the people at the top as well as, middle men.

⁸⁰ Many states experienced the lockdowns, especially, states of high risk and population densities like Lagos, Ogun, FCT Abuja, Oyo, Kano, Rivers, etc.

⁸¹ I. O. *Eranga*, "COVID-19 Pandemic in Nigeria: Palliative Measures and the Politics of Vulnerability," International Journal of Maternal and Child Health and AIDS (2020), Vol. 9, Issue 2, 220. Available at <www.mchandaids.org> accessed 29/8/2021.

⁸² This was in form of *Tradermoni*, *Marketmoni*, and *Farmermoni* loans issued by the Bank of Industry, Bank of Agriculture, and the Nigeria Export and Import Bank. *Tradermoni* was created specifically to empower petty traders and artisans across Nigeria

⁸³ *BusinessDay*, available at <<http://lamentation-still-trails-lagos-fgs-palliative-packages-as-middlemen-hijack-programme/>> accessed 29/8/2021.

⁸⁴ *Dailypost.ng* "N6.2 billion palliative: arrest order on NDDC Management stands- Senate", available at <<https://dailypost.ng/2021/03/15/>> accessed 29/8/2021; Face book "How we spent Covid-19 palliative funds- NDDC" available at <<https://m.facebook.com>> accessed 29/8/2021; NDDC MD Unable to Defend N1.32bn Covid-19 Palliative Spending- YouTube" available at <<https://m.youtube.com>> accessed 29/8/2021; "Lawyard on Twitter: "We gave *Wike*, Other Niger Delta Govs N100, Each as Palliative" available at <<https://mobile.twitter.com>> accessed on 29/8/2021; "We used N1.5bn to take care of ourselves as covid-19 Palliative- NDDC," available at <<http://saharereporters.com>> accessed 29/8/2021.

⁸⁵ *Vanguard*, "lockdown; Hungry people more dangerous than COVID-19, Nigerians" available at <www.vanguardngr.com> accessed 29/8/2021; "Millions face hunger as African cities impose coronavirus lockdowns" available at <www.reuters.com> accessed 29/8/2021; "Nigerian citizen: I prefer to die from COVID-19 than hunger-CNN Video" available at <<https://www.cnn.com>> accessed 29/8/2021; and *Guardian*, "Averting an imposition of hunger and anger," *The Guardian Nigeria News*, available at <m.guardian.ng> accessed on 29/8/2021.

Nigeria? It all points that the Federal government was not transparent enough to guarantee a fair distribution of the palliatives to reach the most vulnerable of the society. Politicians rather seized the opportunity to commandeer the palliatives for their families and party loyalists, much to the neglect of those Nigerians whose source of income was forestalled by the lockdowns, the unemployed, the mentally retarded, the poor of the society, the elderly, children of the poor, people with underlying medical conditions, motherless babies homes, etc.⁸⁶ According to *DuBois*, vulnerable simply is one who is susceptible to harm.⁸⁷ However, the Belmont Report gave a clearer picture of vulnerability when it recommends five categories of harm to include economic, social, legal, physical, and psychological harms.⁸⁸ By asking citizens to remain under a lockdown, all of these five types of harm result, making the people vulnerable economically, legally, socially, physically, and psychologically. Some persons lost their means of livelihood; artisans on daily pay jobs, lost their jobs, traders and businesses crumbled, courts were short down, many underlying health conditions were aggravated, frustrations mounted, opening door to violence including domestic violence, etc. All of these affected persons are vulnerable to which the palliatives and other measures would have benefitted most and not the already well fed politicians who are already well off.

Suffice to say that so far the COVID-19 has not been entirely on government funding alone, there has been individual contributions; the Nigerian state oil company donated \$30 million to assist government;⁸⁹ the European Union contributed 50 million Euros in their COVID-19 response;⁹⁰ the private sector was called upon by the Central Bank of Nigeria, after which they formed the Coalition Against Covid-19 (CACOVID), which was launched on March 26, 2020 to assist government.⁹¹ The CACOVID donated \$72 million, which was used to purchase food and relief materials and to provide health care equipment and other facilities in different parts of the country.⁹² In addition, the IMF donated \$3.4 billion to tackle the economic impact of the epidemic.⁹³ Also, government have borrowed about three tranches of loan so far.⁹⁴

4. Impacts of Government Response on Human Rights

It is a fundamental obligation of government to protect human rights at all times whether in peace time, in times of war, during an epidemic and after an epidemic. The COVID-19 pandemic made many nations of the world to invoke their emergency powers in an attempt to fight the menace, minimize its spread, and also protect its citizens from danger. It is true that the pandemic calls for some stringent measures, notwithstanding, this should not be an excuse to undermine human rights, which incorporates the right to freedom of movement, freedom of expression and information, right to privacy, right not to be tortured, etc. The WHO declaration of COVID-19 as a pandemic caused many countries to declare a state of emergency in their states, which necessitated some acting on extra-judicial powers. As difficulties posed by the epidemic increases, there is the tendency that countries may likely adopt more crucial measures some of which greatly impede on human rights. From the measures adopted by the Nigeria government in fighting the pandemic, many issues on rule of law and human rights erupted, thereby, making one to wonder whether the sacrifices of government to control the pandemic was really in the best interest of the people or out of government's selfish interest. Many Nigerians did not even believe the NCDC story of an index case in the first place nor did they accept that there is Covid-19 at all in Nigeria. This is largely due to the insincerity of the leaders and the fact that every move heightens corruption, which is a pandemic of its own in Nigeria. The people's fears were some worth confirmed by the magnitude of "palliative" the Niger Delta Development Commission (NDDC) pocketed for themselves.⁹⁵ While the western countries were giving palliative to the poor and vulnerable members of the society, Nigerian leaders were gifting themselves huge amount as palliative. Notwithstanding, the series of restrictions at both the federal and state levels posed a greater hardship on the common man than the virus itself. The virus seemed to be a lesser threat compared to many human rights abuses. All the human rights provisions as upheld by the Constitution were abused by the measures adopted by government to fight the pandemic.⁹⁶ First, is the right to life,⁹⁷

⁸⁶ Vulnerability in the common sense is where one cannot cater for himself or herself as a result of prevailing condition, which he or she is faced with.

⁸⁷ JM *DuBois*, *Vulnerability in Research*. Cited in Elizabeth A. Bankert, and RJ Amdur (eds) *Institutional Review Board: Management and Function*. Burlington: Jones and Bartlett Learning; 2006: P. 337.

⁸⁸ *Ibid*, economic harm like loss of job or very low pay; legal harm like being declared incompetent by a court of law; social harm like being stigmatized, etc.

⁸⁹ "Covid-19: NNPC, Oil Industry Donate N11bn to Combat Coronavirus in Nigeria," available at <<https://www.proshareng.com>> accessed 24/11/2021. Also, "Covid-19: Oil, gas industry operators donate ambulance, buses, ventilators to Delta Government," available at <<https://www.vanguardngr.com>> accessed 24/11/2021.

⁹⁰ "European Union donates E50m to Nigeria to fight coronavirus-Nairametrics," available at <<https://nairametrics.com>> accessed 24/11/2021.

⁹¹ "Nigerian private sector donates more than most other African countries in fighting Covid-19," available to <african.business> accessed 24/11/2021.

⁹² "Controversy shrouds accountability for monies, materials donated," available at <<https://guardian.ng>> accessed 24/11/2021.

⁹³ "IMF Executive Board Approves US \$3.4 Billion in Emergency Support to Nigeria," available at <<https://www.imf.org>> accessed 24/11/2021.

⁹⁴ "IMF Covid-19 emergency loans: A view from four countries," available at <<https://www.transperency.org>> accessed 24/11/2021.

⁹⁵ "Police, NDDC staff shared N3.14bn for Covid-19, says Senate- Businessday NG" available at <https://businessday.ng> accessed 24/11/2021. Also, "Again, Senate summons NDDC over N6.25bn Covid-19 palliative sharing," available at <https://punchng.com> accessed 24/11/2021.

⁹⁶ Chapters II and IV, CFRN, 1999.

which were not spared by the security agents in their bid to enforce the rules. The right to human dignity was greatly violated by the many unjustified chastisements of offenders during the lockdowns and restrictions by security agents.⁹⁸ Corruption and extortion became an order of the day.⁹⁹ The lockdown increased the spate of domestic violence in the country due to heightened frustrations and helplessness the people were subjected to. Domestic violence increased drastically by 56 percent.¹⁰⁰ More so, the closure of the courts denied the people access to justice. Many lawyers in the country were thrown out of job and denied their means of livelihood for several months. The attempts to hold court sittings through virtual sittings, was not so successful due to lack of infrastructure.¹⁰¹ The freedom of worship of the people was hampered due to restrictions on religious functions and closure of places of worship. The freedom of peaceful assembly and association was violated; the right to movement was also denied the people. It was unthinkable to cage adults and children at home for several days and weeks, with no immediate solution in sight from government who rather than make efforts were waiting for the western countries to come up with a vaccine.¹⁰² The human rights situations of the country during the lockdowns caused the Amnesty International to call on the Nigerian government to adopt some right-respecting measures and instruct its law enforcements agents to respect human rights in carrying out their civil duties.¹⁰³ The most appalling was the denial of the freedom to movement, which at the same time hindered the people's means of livelihood. Many Nigerians live on daily pay, and had no savings to fall back to during the lockdown. Also, the right to privacy¹⁰⁴ as provided by the Constitution was abused through data protection.

Nigeria is one of the countries to institute COVID-19 restrictions on international travels. There is compulsory testing for international travellers. This coupled with the burden of a vaccine passport sure offends the fundamental human rights of the people to freedom of choice and freedom of movement.¹⁰⁵ This is despite the ruling of the European Court of Human Rights in January 2021 that no one should be vaccinated against his will.¹⁰⁶ Perhaps, this recent ruling by the Strasbourg court may discourage government to be less insistent on compulsory vaccine. It is true that people need to fortify themselves with the COVID-19 vaccine but they should not be forced but should opt for it willingly and without duress, especially, when the vaccine is still a work in progress and no one could conclusively account entirely for its safety and long term implications for human safety. The right to decide what happens to one's body was held to be a fundamental human right, in the case of *Pretty v. United Kingdom*,¹⁰⁷ which exceeds state powers. There was restriction placed on freedom of expression, in a bid to curb fake news. It is the duty of government to truthfully supply all necessary information in order to protect and encourage the people's rights, including their right to health, this it should do in the language the people including illiterates would understand. This should be on all radio stations and jingles; and through trained personnel detailed to educate the people in rural areas. However, Government agents employed the use of excessive force to ensure compliance to the rules. The law enforcement agents saw the restrictions as an avenue to engage in corrupt practices and extortions, and those who cannot meet up with their demands are rough handled and tortured.¹⁰⁸

The UN recognizes the right to good healthcare as a human right that must not be compromised. The health care of any country encompasses its personnel, infrastructures and institutions all working together to promote good health of the citizens. The UN therefore recognizes health care as an intrinsic part of human rights in the twenty first century, which states should give prominence to. Consequently, the right to health ascends beyond the building of hospitals and training of health workers to include the right to a good drinking water, clean environment, good nutrition, health information and equality.¹⁰⁹ This expansion of the scope of healthcare as a human right, spells greater responsibility

⁹⁷ 'Coronavirus: Security forces kill more Nigerians than COVID-19' - BBC News available at <<https://www.bbc.com/news>> accessed 2/10/2021; see also, 'Nigerian Security forces killed 18 people during lockdowns: rights panel/ Reuters' available at <<https://www.reuters.com>> accessed 2/10/2021.

⁹⁸ B. *Odigbo* (2020) 'COVID-19 lockdown controls and human rights abuses,' Emerald Open Research available at <<https://emeraldopenresearch.com>> accessed 1/10/2021.

⁹⁹ R.A. *Aborisade* & D.D. *Gbahabo* (2021) 'Policing the lockdown: accounts of police officers' aggression and extortion of frontline health workers in Nigeria, policing and society,' available at <<https://doi.org/10.1080/10439463.2021.1903461>> accessed 2/10/2021.;

¹⁰⁰ O. *Ilesanmi* (2020) 'Domestic violence amid the COVID-19 lockdown: a threat to individual safety' available at <<https://jglobalbiosecurity.com>> accessed 2/10/2021. Also, 'Amidst COVID-19 Lockdown, Nigeria Sees Increased Sexual and Gender Violence' available at <pulitzercenter.org> accessed 2/10/2021.

¹⁰¹ 'Legal and Infrastructural Challenges to Remote Court Proceedings in Africa,' available at <<https://www.africanwomeninlaw.com>> accessed 2/10/2021.

¹⁰² This no doubt exposes the over dependence of Nigeria and the fact that government is not empowering the people to grow in science and technology as other countries.

¹⁰³ 'Authorities in Nigeria must uphold human rights in fight against COVID-19,' available at <www.amnesty.org> accessed 24/11/2021.

¹⁰⁴ Section 37, CFRN.

¹⁰⁵ The Guardian, "COVID-19 restrictions and human rights" 10 May 2021.

¹⁰⁶ The Council of Europe in its Resolution 2361/2021. Its 47 state parties (except Belarus, Kosovo and Vatican) were made to report before vaccination that vaccination is not compulsory and that unvaccinated persons would not be discriminated upon. This has been countered by a recent ruling of the Court in Strasbourg that compulsory vaccinations would not violate human rights law and is not against any democratic society.

¹⁰⁷ App. No. 2346/02 (ECHR 423, Apr. 29, 2002).

¹⁰⁸ R.A. *Aborisade* (2021) 'Accounts of Unlawful Use of Force and Misconduct of the Nigerian Police in the Enforcement of COVID-19 Measures' Journal of Police and Criminal Psychology available at <<https://link.springer.com>> accessed on 2/10/2021.

¹⁰⁹ World Health Organization, 'Right to Health Care,' available at <<https://www.ohchr.org/Documents/Publications/Factsheet31.pdf>> accessed 21/5/2021.

on the Nigerian government. The International Covenant on Economic, Social and Cultural Rights (ICESCR) places an obligation on state parties to ensure the right to the highest attainable standard of physical and mental health to everyone.¹¹⁰ So, it is the duty of the state to protect, prevent, treat and control the epidemic but this it is expected to do without jeopardizing the human rights of the people. In the first place, Nigerian health care system is nowhere compared to the minimum standard permitted before and during the pandemic. The people are asked to take care of themselves at home and with no cost on the government. Thus, many resorted to taking malaria and typhoid herbs, paw-paw leaves, ginger, garlic, etc. to protect themselves against any form of fever.

As *Nwafor* rightly observed, the main concern of human rights teachings is the relationship between the people and the state.¹¹¹ Human rights philosophically indicate all the moral assertions, which humans may cite against the state. In a more practical sense, human rights form the constitutional bases to hold the state responsible under national laws.¹¹² Although, the right to health and safe environmental¹¹³ is recognized by the Nigerian Constitution as a human right, these rights are limited by the Constitution, to the effect that failure of government to provide them cannot be contested in the court of law.¹¹⁴ It is the Constitution that predicts the extent to which such rights could be enforced, thus making these rights mere privileges of government to the people.¹¹⁵ Government failed to provide some necessary protective tools for its health workers to ensure they are not infected in a bid to carry out their responsibility as health workers. This resulted in health workers abandoning their duty posts in fear of catching the deadly infection.¹¹⁶ The infrastructure provided as isolation centres were dilapidated and dehumanizing with few bed spaces, no first aid drugs, or oxygen and no good sanitary conditions.¹¹⁷ And testing kits and training materials were in very short supply.¹¹⁸

Before the pandemic, the country was already suffering the impact of recession. It was classified as the poverty capital of the world.¹¹⁹ This makes the series of lock downs and quarantine measures of government more of punishment on the people, and which aggravated many existing health challenges.¹²⁰ The government placed restrictions and lock downs on the people without taking the lead from some advanced countries to provide some palliatives for the people, and the little provided went into the pockets of the rich and powerful politicians.¹²¹ Depriving the people of their right to movement is unconstitutional and an abuse of the human rights of the people.¹²² A violation of one right invariably leads to the violation of several other human rights. This shows how intrinsic such rights are to any human being.

Unfortunately, the judiciary, who were themselves on lock down could not step up to their responsibility to protect the people. Access to justice is a human right.¹²³ While some countries still provide some skeletal judicial operations for the people, the Nigerian courts were short down.¹²⁴ For instance, in China during the pandemic, the courts were still open to entertain matters of immediate concern.¹²⁵ Also, a South African High Court in the case of *Afriforum v. The Minister of Cooperative Governance and Traditional Affairs*,¹²⁶ held that compulsory quarantine was illegal, illogical and unconstitutional. The court went on to declare that Covid-19 patients cannot be forced to quarantine at a government facility, where they choose to self-isolate in their respective homes. Though, it is required by international law to restrict human rights for public health crisis, this should be done in line with the rule of law, with civility and in

¹¹⁰ Article 12, ICESCR, G.A. res. 2200A (XXI), 21 UN GAOR Supp. (No. 16) at 49, UN Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force on January 3, 1976.

¹¹¹ G.C. *Nwafor* and A.O. *Nwafor* (2020) 'Covid-19 implications on right to healthcare in Nigeria and China,' *The International Journal of Human Rights*, DOI: 10.1080/13642987.2020.1845160 available at <<https://doi.org/10.1080/13642987.2020.1845160>> accessed 1/9/2021.

¹¹² Frans Viljoen, *International Human Rights Law in Africa*, 2nd ed. (Oxford: Oxford University Press, 2012), See also, David Forsythe, *Human Rights in International Relations*, 2nd ed. (New York: Cambridge University Press, 2006), 3.

¹¹³ Section 20, Chapter II CFRN.

¹¹⁴ Section 6(6) (c) of the 1999 Constitution of the Federal Republic of Nigeria.

¹¹⁵ A.O. *Nwafor*, 'Enforcing Fundamental Rights in Nigeria Courts-Processes and Challenges,' *African Journal of Legal Studies* 4 (2009):1.

¹¹⁶ '70 Per Cent of Medical Doctors in Kano Have Abandoned Duty Posts, Analyst Says,' available at <<https://saharareporters.com/2020/04/28/70-cent-medical-doctors-kano-ave-abandoned-duty-posts-analyst-says>> accessed 4/5/2021.

¹¹⁷ *Sodiq Oyeleke*, 'COVID-19: Nigeria Lacks Bed Spaces, Says NCDC Boss,' available at <<https://punchng.com/covid-19-nigeria-lacks-bed-spaces-says-ncdc-boss/>> accessed 4/5/2021.

¹¹⁸ *Adelani Adepegba, Leke Baiyewu et al.*, 'COVID-19: Lagos Battles Shortage of Reagents, FCT Runs Out of Test Kits,' available at <<https://punchng.com/covid-19-lagos-battles-shortage-of-reagents-fct-runs-out-of-tests-kits/>> accessed 4/5/2021.

¹¹⁹ 'report: Nigeria Still Poverty Capital of the World- Thisdaylive,' available at <https://www.thisdaylive.com> accessed 24/11/2021.

¹²⁰ 'COVID-19 Patients Protest Poor Quarantine Conditions in Gombe,' available at <<https://www.vanguardngr.com/2020/05/covid-19-patients-protest-poor-quarantine-conditions-in-gombe/>> accessed 4/5/2021.

¹²¹ I.O.E. *Eranga* (2020) 'Covid-19 Pandemic in Nigeria: Palliative Measures and the Politics of Vulnerability' *Int. J MCH AIDS*.2020;9(2):220-222 available at <<https://pubmed.ncbi.nlm.nih.gov>> accessed 2/10/2021.

¹²² B. *Odigbo* (2020) 'COVID-19 lockdown controls and human rights abuses: the social marketing implications' *Emerald Open Research* available at <<https://emeraldopenresearch.com>> accessed 2/10/2021.

¹²³ V. Lima and M. Gomez, *Access to Justice: Promoting the Legal System as a Human Right* Springer Publishing, 2020.

¹²⁴ C. *Shi, T. Sourdin & B. Li* (2021) 'The Smart court- A New Pathway to Justice in China?' *International Journal for Court Administration* available at <<http://doi.org/10.36745/ijca.367>> accessed 2/10/2021.

¹²⁵ X.Zhang, "Remote court hearing as a judicial response to the COVID-19 outbreak," available at <<https://www.ncbi.nlm.nih.gov>> accessed 24/11/2021.

¹²⁶ Unreported Case No. 22358/2020, available at <<https://businesstech.co.za/news/government/404567/new-high-court-refuses-let-family>> accessed 4/5/2021.

a manner proportionate with the demands of due process of the law.¹²⁷ Where government fails to observe this fundamental porch in its measures to fight the COVID-19 pandemic, it amounts to an abuse of the rights of the people as provided them by the various international, regional and local legal instruments.

5. Conclusion and Recommendations

Nigeria being a state party, is under obligation to take steps to protect its citizens as well as ensure the best attainable health of the people. In carrying out these obligations, the need to deny the people certain freedoms may arise. This it did by adopting some measures in the fight against COVID-19. However, in carrying out these obligations, government should not ignore human rights, which supersedes political privileges and powers and which must be respected at all times whether in peace time or in times of state emergencies such as a period of pandemic. For instance, where the people's freedom of expression is denied, it behoves on government to provide adequate information for the protection of the people's rights to health, security and wellbeing. It should ensure access to all the information, which the people need to know concerning COVID-19. This should be done transparently and convincingly. There should be reliable and free access to the internet for all considering the income of the people. There should be a good and affordable supply of electricity to reduce the people's frustration during lockdowns. Government adopted some health, economic and social policies to fight the pandemic. Some of these measures are not without valid criticisms because most are not proportionate to the situation at hand and some were implemented without thoughts to its implication on the people nor did they observe the due process in forming and passing such policies. It was more of an executive approval with the legislative presiding over it. It is clear that the effects of the pandemic will continue on the economy and social life of the people long after the pandemic. This is due to the constraints of COVID-19 and the already low oil prices, which is hitting hard on the country. So the country must device some domestic means to survive and cut down as much as possible on its excessive and flamboyant life styles. The need to cut down on excessive spending should start with government and politicians. They should lead by example. One sure alternative to oil is agriculture. Government needs to give critical attention to this aspect of the economy.

The pandemic is an eye opener to the continuous neglect of the health sector in Nigeria. Therefore, there should be a regular and adequate funding of the health sector even beyond the period of pandemic. Nigeria should emphasis on improving its surveillance systems to curtail the importation of the disease at the borders. It should also strengthen its regional and international cooperation and activate austere measures at its ports of entry. It should intensify all efforts at early detection and diagnosis and urge people to undergo tests by making the exercise less cumbersome, time consuming and stressfree for the masses. From lessons learnt from the Covid-19 epidemic, it becomes most cogent to establish an enduring legal structure for the protection of human rights in emergency situations. It is recommended that the right to social security should be given credence both at the federal and state levels. Government should give more thoughts to technology and information network. From the experiences of the pandemic, it is clear that the world is going digital. Therefore, there should be an increase in cash transfers, online communications, visual networking, etc. Artisans and other unskilled workers, petty traders and the unemployed, who are in fact the bulk of Nigerians, should be adequately captured in the policy making process. Nigeria should adopt strict measures to curb corruption and cheating at all levels. States of emergency should not be used as an excuse to repress the people's rights and personal freedoms. Mandatory restrictions should be rare and only when there is no other way out and not without some empowerments. Where a lockdown becomes inevitable, basic necessities of life should be ensured as a matter of duty on the part of the state. There should be access to food for all and care for the sick. The public health emergencies should be ready to assist without stringent bottle-necks capable of undermining human rights. The right of freedom of peaceful assembly, freedom of association and freedom of worship should be protected even in times of emergencies. Emergency situations are not enough excuse to use excessive force, extortions, and stiff penalties against the people. The people would be more cooperative if allowed to self-isolate without being forced to do so but by carefully educating them on the choice they choose.

All key players should ensure the emergency measures assumed by government in the COVID-19 response conform with the human rights standards. The National Human Rights Institutions should play crucial roles to protect human rights at all times, especially in times of war and emergencies, when rights are most likely to be undermined. This they should do by advising and making better recommendations to government to protect human rights. They are to monitor and make sure rights are not abused; provide helpful remedies for victims of human rights abuses; provide visual services to the people during lockdown; inform and reassure the people at all times; among other things.¹²⁸ Civil societies are not left out. They ought to ensure targeted and truthful opinions on the COVID-19 measures taken by government. They should participate in the law making process during the making of emergency legislations; it is in their place to review all emergency legislations according to relevant human rights standards; monitor implementation of such legislations; check arbitrary use of executive powers; and ensure the situation is quickly eased

¹²⁷ United Nations Economic and Social Council UN Sub-Commission on Prevention of Discrimination and Protection of Minorities: The *Siracusa* Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights, Annex (1985). U.N. Doc. E/CN.4/1985/4.

¹²⁸ See, NHRI responses to the COVID-19 pandemic, available at <<https://www.ohchr.org/EN/Countries/NHRI/Pages/NHRIS-and-Covis-19.aspx>> accessed 19/9/2021.

up immediately after the emergency.¹²⁹ The judiciary should not undermine their indispensable role as the 'last hope of the common man' even in times of great emergency. Courts should maintain their jurisdiction to arbitrate complaints of violations of rights and ensure prompt legal redress and a fair trial; courts as a matter of duty should review all necessary emergency measures taken to ensure they are consistent with human rights standards within acceptable emergency guidelines; and they should ensure that all surveillance mechanisms get judicial approval before it could be imposed on the people.¹³⁰ The Legislative should be proactive in times of emergencies. They should enact and supervise the implementation of emergency frameworks to control and maintain rights in emergency situations; they should monitor the execution of emergency legislations to guarantee compliance with human rights benchmarks; they should have an autonomous and periodic review of emergency measures to consider the importance of measures taken and disadvantages involved; they should appoint and monitor groups tasked with the duty to implement laws; and ensure a timely change in the situation immediately the situation is eased.¹³¹ Finally, chapter II of the Constitution should be made justiciable to hold government more accountable to the people. It is only when these recommendations are applied that human rights could be protected in the war against COVID-19 in Nigeria.

¹²⁹ See, OHCHR Guidance: Civic Space and COVID-19; 4 May, 2020.

¹³⁰ See, UN Human Rights Council: Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism on the human rights challenge of states of emergency in the context of countering terrorism*, Fionnuala Ni Aolain, A/HRC/37/52, 27 February 2018, P. 21.

¹³¹ *Ibid.*