

**THE OSU CASTE SYSTEM IN THE SOUTH-EAST REGION OF NIGERIA AND INTERNATIONAL PROTECTION OF VULNERABLE AND DISADVANTAGED GROUP: A LEGAL APPRAISAL**

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**Abstract**

In some communities in the South-East region of Nigeria, there still exists the degrading and discriminatory practice of Osu caste system despite its abolition many years ago. This continued practice of the caste system has been perceived as constituting a violation of the provisions of the Nigerian Constitution<sup>1</sup> as well as regional and international human rights treaties. The aim of this paper, therefore, is to examine how the practice of the Osu caste system violates certain provisions of domestic, regional, and international human rights laws and makes recommendations on how it can be eradicated. The paper adopts doctrinal legal research methodology using analytical and critical approaches in actualizing the objective of the research. It also makes use of primary sources of literature on the subject matter such as statutes and case law as well as secondary sources such as textbooks, journal articles, internet materials, and so on. The author finds, inter alia, that the practice of the Osu caste system flagrantly violates the provisions of the Nigerian Constitution as well as regional and international human rights instruments. The paper concludes, among other things, that the continued practice of the Osu caste system in the South-East region of Nigeria is gravely discriminatory, illegal in all its forms, and runs contrary to the core principles of dignity of human person and equality of persons inherent in all human beings as enshrined in the Charter of the United Nations and Chapter IV of the Nigerian Constitution. The author, therefore, urges the Nigerian Government to, as undertaken in article 4(a) of the International Convention for the Elimination of All Form of Racial Discrimination and other human rights instruments, take the necessary legislative measures towards amending its existing criminal laws or enacting new ones, criminalizing the practice of Osu caste system by making it an offence punishable by law.

**Keywords:** Human Rights, Outcast, Caste System, Disadvantaged and Vulnerable People, Discrimination, South-East Region, and Nigeria.

**1.0 Introduction**

The word, ‘Osu’ is a local Igbo<sup>2</sup> name meaning ‘outcast’. Historically, they are seen as a group of individuals within the region who, according to some unverified traditions and customs, were either “sold into slavery to others or offered as sacrifices to the local deities (‘Alusi’) demanding human offerings during cultural festivals, ultimately leading to their enslavement”.<sup>3</sup> They are also believed to arise from ostracism, wherein “those who defied the king’s orders or community decisions were banished”, thus resulting in the victims and their descendants being labeled as *Osu* (outcast).<sup>4</sup> The *Osu* caste system, as a traditional practice in Igbo land, is characterized by social discrimination,

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<sup>1</sup> Section 42 of the 1999 Constitution of the Federal Republic of Nigeria (as amended) provides for the right to freedom from discrimination based on ethnic group, place of origin, sex, religion, or political opinion.

<sup>2</sup> Igbo is one of the three major tribes or ethnic groups in Nigeria, and it is a major language spoken by the people of the South-east and some ethnic groups in the South-south region of Nigeria.

<sup>3</sup> Amadife (1988), ‘*The Culture that Must Die*’, Sunday Times, Lagos, Nigeria.

<sup>4</sup> C.M, Ezekwugo (1987), ‘*Ora-Eri Nnokwa and Nri Dynasty*’, Lengon Printers, Enugu.

hate, deprivation, and restriction on interactions, marriages, rights, and privileges with a group of individuals known as ‘*Osu*’.<sup>5</sup>

In his novel, ‘*No Longer at Ease*’<sup>6</sup>, Chinua Achebe noted that those labelled as *Osu* are designated separate seats in churches. This is because “they are seen as unclean and are barred from breaking kola nuts or offering prayers on behalf of individuals outside their own caste due to the belief that they may bring calamity upon the society”.<sup>7</sup>

In many communities in the South-East region of Nigeria, the practice of the *Osu* caste system is still conspicuously prevalent, where certain families and individuals are identified as *Osu*. The system divides the Igbo society into the *Diala* community (freeborn) and the *Osu* community (outcast). As a traditional practice, the *Osu* caste system has been successively passed from one generation to the other and has almost remained hardly influenced by civilization, westernization, Christianity, and globalization, as well as fiercely resisted human rights advocacy against the practice. Despite its abolition in Nigeria,<sup>8</sup> the *osu* caste system has possibly remained the most obstinate in resisting extermination unlike other customs and traditions in Igbo land considered to be repugnant to natural justice, equity, and good conscience, including the killing of twins and extrajudicial killing of thieves.

This class of persons are not seen as freeborn (‘*Diala*’), are treated as inferiors and second-class citizens, and largely discriminated against by the *Diala* class in their respective communities. Accordingly, they are deprived of certain community rights and privileges, including prohibition of inter-marriage with the freeborn or the *Diala class*, participation in community funeral rights and cultural festivities, receipt of certain traditional titles exclusively reserved for the freeborn, and farming on the same farmlands with the freeborn, among others. Thus, the *Osu* caste system, in its social stratification, discriminates against, and reduces, this class of individuals recognized as *Osu* to a vulnerable and disadvantaged group, who are not treated on an equal basis with the other members of their respective communities.

The caste system also forbids and discourages social interaction and inter-marriage with the other members of the community. Ugobude<sup>8</sup> vividly captured the effect of the caste system when he stated that “as an *Osu*, you are kept in a state of permanent and irreversible disability and subjected to abuse and discrimination. They are not allowed to have any form of relation with the *Dialas*”.<sup>9</sup>

Out of the many discriminatory practices that characterize the *Osu* caste system, I find the prohibition and/or non-approval of inter-marriages with the other members of the community most disturbing. This is because not permitting some persons classified as *Osu* to inter-marry with the other members of the community has some far-reaching implications. It appears to reduce this class of persons to inferior humans, stigmatizes them, and flagrantly violates their various human rights protected by the supreme law of the land as well as national, regional, and international human rights instruments.

Intending couples get disappointed and more often discouraged from getting married when it is discovered that either of them comes from a family classified as *Osu*. These innocent youth may not be aware of the fate that befalls them until the man proceeds to the family of the woman for some

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<sup>5</sup> See Wikipedia, the Free Encyclopedia.

<sup>6</sup> *No Longer at Ease* is a 1960 novel written by the Nigerian and Internationally acclaimed author, Chinua Achebe, who is also the author of one of the world’s best-selling novels, “*Things Fall Apart*”.

<sup>7</sup> E, Asinugo (2014), ‘The Church and the Fight against *Osu* Caste System in Eastern Nigeria’, *Nigerian Voice*.

<sup>8</sup> See *Uzoukwu v. Ezeonu II* (1991) 6 NWLR (Pt. 200) 708 at 770; Abolition of *Osu* System Law, 1956 Cap. 1 of the Laws of Eastern Nigeria, 1963; V. O. Chukwuma (2023), ‘A Legal Analysis of the Pre-Colonial Igbo Peoples’ Perspective to Criminal Justice’, *African Journal of Culture, History, Religion and Traditions* 6(1), 16-45 (at page 25).

<sup>8</sup> F. Ugobude, ‘Culture: The *Osu* Caste System in Igboland’, 18 November 2018, accessible at <https://guardian.ng/life/culture-the-osu-caste-system-in-igboland/>. Accessed 31/07/2024

<sup>9</sup> *Ibid.*

traditional introductory rites. Often, this is followed by some traditional enquiries to ascertain the true status of the family of the woman, who also takes turn to inquire about the status of the family of their intending in-laws. It is at this point that their hopes usually get dashed upon the discovery that either of the families belongs to the *Osu* caste. Upon this discovery, the supposed *Diala* family immediately disapproves of the marriage, not minding the mutual love their children share together, their long-term plans, wills, and preferences. When this happens, the person classified as *Osu* becomes immediately stigmatized by members of the family of the *Diala* class and the marriage ends abruptly.

In a few instances, however, the intending couples may wish to proceed with the marriage despite the disapproval of their family members. This has, in some cases, led to some families totally disowning their children, including any children of such marriages, as all of them are labelled *Osu* with wide discrimination and stigmatization in their communities.

The inter-marriage prohibition or disapproval has more far-reaching consequences on the part of women than their male counterparts. Many women of marriageable age are rendered unmarriageable and may be kept perpetually single because of the circumstances of their birth as coming from the *Osu* background. When they eventually get married, they also face discrimination on social inclusion and integration; they are denied their cultural rights and privileges, are refused participation in some community activities and ceremonies, and permanently wear the toga of stigmatization as *Osu*, including their children, who eventually face the same segregation and consequences.

## 2.0 Legal Framework for Prohibition of the Practice of *Osu* Caste System in Nigeria

### 2.1 Constitution of Federal Republic of Nigeria<sup>10</sup>

The *Osu* caste system subjects the class of persons classified as *Osu* to disability and deprivation contrary to the express provisions of section 42(2) of the Constitution<sup>11</sup> which provides as follows:

“No citizen of Nigeria shall be subjected to any disability or deprivation merely by reason of the circumstances of their birth”.

Generally, section 42(1) of the Constitution<sup>12</sup> provides for the right to freedom from discrimination as follows:

“A citizen of Nigeria of a particular community, ethnic group, place of origin, sex, religion, or political opinion shall not, by reason only that he is such a person:

(a) be subjected either expressly by, or in the practical application of, any law in force in Nigeria or any executive or administrative action of the government, to disabilities or restrictions to which citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religions, or political opinions are not made subject; or

(b) be accorded either expressly by, or in the practical application of, any law in force in Nigeria or any such executive or administrative action, any privilege or advantage that is not accorded to citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religions, or political opinions”.

It is my submission that the practice of the *Osu* caste system subjects the class of persons classified as *Osu* to disabilities or restrictions to which other citizens of Nigeria in the same community or

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<sup>10</sup> 1999 Constitution of the Federal Republic of Nigeria (as amended).

<sup>11</sup> *Ibid.*

<sup>12</sup> *Ibid.*

other communities are not subjected to. The practice also accords privileges or advantages to citizens of Nigeria in the same community or other communities as those classified as *Osu*, whilst denying this class of persons such privileges or advantages. Thus, the practice of the caste system subjects them to a minority, vulnerable, and disadvantaged group in flagrant violation of the express provisions of the Constitution, which is the supreme law of the land.

The Nigerian Constitution also provides for the right to respect for the dignity of the human person to the effect that no person shall be subjected to torture or other inhuman or degrading treatment.<sup>10</sup> Whilst submitting that the practice of *Osu* caste system may not be subjecting the affected individuals to torture, it is my considered view that it does subject them to inhuman or degrading treatments to which other members of the community or citizens of Nigeria are not subjected to, thereby discriminating against them. The practice also violates the right of the individuals to freely assemble and associate with other persons in their communities, contrary to the express provisions of section 40 of the Constitution.<sup>11</sup> Thus, the *Osu* caste system breaches the human rights provisions as contained in the Nigerian Constitution and this is a matter of a serious concern, as some class of persons, who are citizens of Nigeria, are arbitrarily and discriminatorily subjected to disability and deprivation to which other citizens are not subjected to.

Having discussed the constitutional violations inherent in the practice of the caste system, this paper will now move to discuss similar violations in certain relevant regional and international human rights instruments.

## 2.2 Convention on the Rights of Persons with Disabilities

The *Osu* caste system also violates certain regional and international human rights treaties, including some provisions of the Convention on the Rights of Persons with Disabilities herein after referred to as CRPD. According to article 5 of the CRPD, all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law.<sup>12</sup> State parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.<sup>13</sup> Also, States parties to the Convention, including Nigeria, recognize the equal right of all persons with disabilities to live in the community, with choices equal to others<sup>14</sup> as well as take effective and appropriate measures to eliminate discrimination against persons with disabilities in all matters relating to marriage, family, parenthood, and relationships on an equal basis with others in the society.<sup>15</sup> As earlier submitted, the caste system subjects the class of persons classified as *Osu* to disabilities or restrictions to which other citizens of Nigeria in the same community or other communities are not subjected to. By subjecting them to disabilities or restrictions, one can rightly argue that this class of persons have been made to live with a disability. Nigeria is a State Party to the CRPD and upon ratification of the Convention, undertook to take effective and appropriate measures to eliminate discrimination against persons with disabilities on all grounds. Therefore, allowing some group of persons in a community to discriminate against this class of persons on grounds of caste, runs contrary to the express provisions of articles 5, 19, and 23 of the CRPD.

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<sup>10</sup> See section 34(1)(a) of the 1999 Constitution.

<sup>11</sup> Section 40 of the Nigerian Constitution provides that 'every person shall be entitled to assemble freely and associate with other persons, and in particular he may form or belong to any political party, trade union, or any other association for the protection of his interests'.

<sup>12</sup> See article 5(1) of the CRPD.

<sup>13</sup> See article 5(2) of the CRPD.

<sup>14</sup> See article 19 of the CRPD.

<sup>15</sup> See article 23 of the CRPD.

### 2.3 Universal Declaration of Human Rights

Article 1 of the Universal Declaration of Human Rights herein after referred to as UDHR provides that “all human beings are born free and equal in dignity and rights...” If all human beings are born free and equal in dignity and rights, where then is the place of the dichotomy inherent in the practice of *Osu* caste system, wherein a community is arbitrarily divided between the freeborn and the *Osu* (outcasts)? Are the so-called freeborn in these communities where the *Osu* caste system is practiced acting towards their kits and kins in a spirit of brotherhood as provided in article 1 of the UDHR? By feeling that they are entitled to more rights and privileges and living like first class citizens, these so-called freeborn subjects the class of persons classified as *Osu* to second class citizens, thereby making them have a natural inferiority complex as well as see themselves as deprived of equity by nature. Contrary to this, however, it must be emphasized that although human beings are born in different conditions and backgrounds, everyone is born free in equity, dignity, and rights, and everyone must learn to respect the rights of other citizens and act towards them as equal.

The UDHR also prohibits discrimination of all kinds. Article 2 provides as follows:

“Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”.

Thus, everyone is entitled to all the rights, privileges, and freedoms provided in the Declaration irrespective of who they are, where they are, how they were born, who gave birth to them, and where they are coming from. Therefore, no one shall be subjected to torture or cruel, inhuman, or degrading treatment or punishment.<sup>16</sup> It is my submission that classifying some individuals as *Osu* and thus subjecting them to disability or deprivations, overtly subjects them to cruel, inhuman, and degrading treatment or punishment. By the provisions of article 6 of the UDHR, “everyone has the right to recognition everywhere as a person before the law, irrespective of class and status”. All human beings are equal before the law and are entitled without any discrimination to equal protection of the law. They are entitled to equal protection against any discrimination and against any incitement to such discrimination.<sup>17</sup>

The prohibition or non-approval of inter-marriages between the freeborn and the *Osu* in the communities where the *Osu* caste system is practiced, flagrantly violates article 16 of the UDHR which provides that “men and women of full age, without any limitation due to race, nationality, or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage, and at its dissolution.”<sup>18</sup> Also, everyone has the rights to freedom of peaceful assembly and association.<sup>19</sup> However, the caste system, by isolating and discriminating against a particular class of persons dubbed as *Osu*, violates their rights to freely assemble and associate with the other members of their communities.

### 2.4 Convention on the Elimination of All Forms of Discrimination Against Women

The practice of the *Osu* caste system affects women more. As explained in pages 3 and 4 above, the inter-marriage prohibition or disapproval has more far-reaching consequences on the part of women than it has on their male counterparts. Many women of marriageable age are rendered unmarriageable and kept permanently single because of the circumstances of their birth as coming from the *Osu* background. The intersection of being a woman and a person classified as *Osu*, subject women to more disability and deprivation than their male counterparts. This violates certain

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<sup>16</sup> See article 5 of the UDHR.

<sup>17</sup> See article 7 of the UDHR.

<sup>18</sup> See article 16 of the UDHR.

<sup>19</sup> See article 20 of the UDHR.

provisions of the Convention on the Elimination of all Forms of Discrimination against Women herein after referred to as CEDAW, including article 2 of the Convention wherein States parties condemn discrimination against women in all its forms and agree to pursue, by all appropriate means and without delay, a policy of eliminating discrimination against women. Thus, States parties, including Nigeria, upon ratification of the Convention, undertook to “adopt appropriate legislative and other measures, including sanctions where appropriate, to prohibit all discrimination against women; to establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions, the effective protection of women against any act of discrimination; to refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions act in conformity with this obligation; to take all appropriate measures to eliminate discrimination against women by any person, organization, or enterprise; to take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs, and practices which constitute discrimination against women; and to repeal all national penal codes which constitutes discrimination against women.”<sup>20</sup>

In addition to the above are the provisions of article 16 of the CEDAW which mandate States parties to “take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations as well as grant the right to women to freely choose their spouses and to enter into marriages only with their free and full consent.”<sup>21</sup> It is obvious that Nigeria is in violation of the provisions of articles 2 and 16 of the CEDAW *vis-à-vis* the practice of the caste system, since it is yet to take any appropriate legislative or other necessary measures to modify and/or abolish the *Osu* caste system (an existing custom and practice in the South-East region of Nigeria) which subjects a certain group of persons (especially women) classified as *Osu*, to disability and deprivation, thereby constituting discrimination against women and contrary to the letters and spirit of the CEDAW. The lack of adoption of any appropriate legislative or other measures by the Nigerian Government towards abolishing or eliminating this discriminatory practice has negatively impacted the ability and chances of women (who are also classified as *Osu*) to contract marriages and found families, thereby violating the principles of equality of rights and respect for their human dignity. Thus, the influence of this culture and tradition seriously affects women’s enjoyment of their fundamental human rights and freedoms.

## 2.5 African Charter on Human and Peoples’ Rights

The African Charter on Human and Peoples’ Rights herein after referred to as ACHPR also provides that every individual is entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the ACHPR without discrimination of any kind, including race, ethnic group, color, sex, language, religion, political or other opinion, national or social origin, fortune, birth, or other status.<sup>22</sup> The Charter also provides for the equality of every person before the law, emphasizing that every individual is entitled to the equal protection of the law.<sup>23</sup> Complementing article 3 of the ACHPR are the provisions of article 5 to the effect that every individual is entitled to “the right to the respect of the dignity inherent in a human being and to the recognition of his legal status”. Thus, all forms of exploitation and degradation of man, including cruel, inhuman, and degrading treatment or punishment are prohibited.<sup>24</sup> Further, the discriminatory practice of the caste system also violates article 11 of the ACHPR which grants every person the right to assemble freely with others. Article 18(3) of the ACHPR mandates States to ensure the elimination of all forms of discrimination against

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<sup>20</sup> See article 2 of the CEDAW.

<sup>21</sup> See article 16 of CEDAW.

<sup>22</sup> See article 2 of the ACHP.R

<sup>23</sup> See article 3 of the ACHPR. See also article 19 which provides that “all peoples shall be equal; they shall enjoy the same respect and shall have the same rights...”

<sup>24</sup> See article 5 of the ACHPR.

women and the protection of the rights of women as contained in international declarations and conventions.

The practice of the caste system subjects those classified as *Osu* to cruel, inhuman, and degrading treatment or punishment as they are not duly treated as human beings by those who see themselves as the freeborn. This erodes the respect for their human dignity, equality before the law, and equal protection of the law, as well as the recognition of their legal status as human beings, with equal rights, privileges, and obligations. Such treatment or punishment becomes more discriminatory and degrading when meted to women on the basis of their sex and social origin or status.

## 2.6 International Covenant on Civil and Political Rights

By virtue of article 2 of the International Covenant on Civil and Political Rights herein after referred to as ICCPR, States Parties, including Nigeria, upon ratification of the ICCPR, undertook “to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant, without distinction of any kind, including race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”.<sup>25</sup> Thus, where not already provided for by existing legislative or other measures, a State Party to the Convention shall take necessary steps to adopt such legislative or other measures as may be necessary to give effect to the rights.<sup>26</sup> Further, article 2(3) provides that a State Party to the Covenant shall “ensure that any person whose rights or freedoms are violated shall have an effective remedy and that any person claiming such a remedy shall have his right determined by a competent judicial, administrative, or legislative authority”.<sup>27</sup> Article 26 of the ICCPR provides that “all persons are equal before the law and are entitled without any discrimination to the equal protection of the law”. The article further prohibits any discrimination and guarantees to all peoples, equal and effective protection against discrimination on any grounds, including national or social origin, birth, or other status.

This group of persons from the South-East region of Nigeria classified as *Osu* are individuals within the territory, and subject to the jurisdiction, of Nigeria, a State Party to the ICCPR. Therefore, Nigeria has a duty to ensure that their rights to the dignity of their human persons, recognition as persons, equality before the law, and equal protection of the law, are not discriminated against by any person or group of persons within its territory and/or subject to its jurisdiction, on any grounds, including national or social origin, circumstances of birth, or other status or considerations. Where there is distinction of any kind affecting the enjoyment of the human rights and fundamental freedoms which inhere in them, Nigeria is under an obligation to adopt such necessary legislative or other measures to give effect to the enjoyment of the rights and to ensure that these individuals have effective remedy before competent judicial, administrative, or legislative authorities. This may include modifying existing law(s) or enacting new law(s) that will guarantee full and unimpeded enjoyment of these rights and/or criminalizing the practice of the caste system, thereby giving the authorities in Nigeria the power to arrest, prosecute, and/or convict any person who commits the offence of stigmatizing another person or group of persons by classifying them as *Osu*.

Like other regional and international human rights instruments, the ICCPR also prohibits the subjection of any person to torture or cruel, inhuman, or degrading treatment or punishment.<sup>28</sup> Further, article 23 of the ICCPR recognizes the right of men and women of marriageable age to marry (with their full and free consent) and to found a family.<sup>29</sup> Thus, the prohibition or non-approval of marriages with a particular group of persons because some members of their community classify them as *Osu*, flagrantly violates article 23 of the ICCPR which recognizes the right of men and

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<sup>25</sup> See article 2(1) of the ICCPR.

<sup>26</sup> See article 2(2) of the ICCPR.

<sup>27</sup> See article 2(3)(a)-(c) of the ICCPR.

<sup>28</sup> See article 7 of the ICCPR.

<sup>29</sup> See article 23(2) and (3) of the ICCPR.

women of marriageable age to marry and to found a home. It also violates article 7 of the ICCPR as the discrimination and stigmatization suffered by this class of persons subjects them to cruel, inhuman, and degrading treatment or punishment.

## 2.7 International Convention on the Elimination of All Forms of Racial Discrimination

The *Osu* caste system is a form and manifestation of racial discrimination and, thus, runs contrary to the core principles of dignity and equality inherent in all human beings as enshrined in the Charter of the United Nations and other national, regional, and international human rights instruments. The practice does not promote nor encourage respect for and observance of human rights and fundamental freedoms for all in the communities where it is practiced. Instead, it operates on a doctrine of superiority of the *Diala* class over the *Osu* class based on some sort of racial discrimination. The doctrine of superiority inherent in the caste system is “scientifically false, morally condemnable, socially unjust and dangerous, and theoretically or practically unjustifiable”.<sup>30</sup> Therefore, the practice violates the provisions of the International Convention on the Elimination of All Form of Racial Discrimination (ICERD), including article 1 of the Convention which defines racial discrimination as “any distinction, exclusion, restriction, or preference based on race, color, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment, or exercise, on an equal footing, of human rights and fundamental freedoms, in the political, economic, social, cultural, or any other field of public life”.

By virtue of article 4 of the ICERD, all propaganda and organizations which are based on the ideas or theories of superiority of one race or group of persons of one color or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, are condemned and prohibited, and States Parties, including Nigeria, are obliged to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination. To this end, therefore, States Parties are mandated to make it an offence punishable by law of “all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, and all acts of violence or incitement to such acts against any race or group of persons”.<sup>31</sup> States Parties to the Convention, including Nigeria, are also obliged to prohibit and eliminate racial discrimination in all its forms, including the discriminatory caste system, and to guarantee the rights of everyone, without distinction, to equality before the law, in the enjoyment of civil rights, including the right to marriage and choice of a spouse and the right to freedom of peaceful assembly and association, as well as in the enjoyment of economic, social, and cultural rights, including the right to equal participation in cultural activities.<sup>32</sup>

Article 2 of the ICERD condemns and prohibits racial discrimination and States Parties undertook “to pursue by all appropriate means, a policy of eliminating racial discrimination in all its forms and promoting understanding among all”. Thus, States Parties shall prohibit and bring to an end, by all appropriate means, including through legislation, racial discrimination in all its forms, by any persons, groups, or organizations.<sup>33</sup> Where, therefore, any persons or group of persons have suffered any form of racial discrimination, article 6 of the ICERD guarantees the right to seek remedy and just and adequate reparations for any damage suffered, and States Parties are mandated to ensure effective protection and remedy to anyone within their jurisdictions through competent national tribunals and other public institutions, including competent courts of law, against any acts of racial discrimination which violate their human rights and fundamental freedoms.

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<sup>30</sup> See Human Rights Watch, “Caste Discrimination: A Global Concern”, A Report by the Human Rights Watch for the United Nations World Conference Against Racism, Racial Discrimination, Xenophobia, and Related Intolerance, which took place in Durban, South Africa, in September 2001, accessible at <https://www.hrw.org/report/2001/08/29/caste-discrimination/global-concern>. Accessed 02/08/2024

<sup>31</sup> See article 4(a) of the ICERD.

<sup>32</sup> See article 5 of the ICERD.

<sup>33</sup> See article 2 of the ICERD.



### 3.0 Conclusion and Recommendations

The continued practice of the *Osu* caste system in the South-East region of Nigeria is gravely discriminatory, illegal in all its forms, and runs contrary to the core principles of dignity of human person and equality of persons inherent in all human beings as enshrined in the Charter of the United Nations and Chapter IV of the Nigerian Constitution, as well as other national, regional, and international human rights instruments. The practice subjects some group of persons unfairly classified as *Osu* to disability and deprivation contrary to the express provisions of *section 42(2) of the Nigerian Constitution* which provides that no citizen of Nigeria shall be subjected to any disability or deprivation merely by reason of the circumstances of their birth. Thus, the caste system flagrantly violates the provisions of the Nigerian Constitution and other national, regional, and international human rights instruments.

Nigerian authorities should, therefore, act to uphold their own constitutional principles and international and regional treaty obligations and work towards the full enjoyment of rights by all citizens without discrimination and regardless of caste or descent. Accordingly, the Nigerian Government, as a signatory and State Party to the afore-mentioned international and regional human rights treaties, should, as a matter of necessity, take urgent positive measures to eradicate the practice.

To this end, the author hereby recommends as follows:

**3.1** That the Nigerian Government should, as undertaken in article 4(a) of the ICERD and other human rights instruments, take the necessary legislative measures towards amending its existing criminal laws or enacting new ones, criminalizing the practice of *Osu* caste system by making it an offence punishable by law.

**3.2** That the government should also adequately sensitize and equip the Police and other law enforcement agencies to ensure prompt response, arrest, and prosecution of offenders to serve as deterrence to others. When offenders are religiously dealt with in accordance with the law(s) criminalizing the practice, it will progressively work towards eliminating the obnoxious, cruel, inhuman, degrading, and discriminatory treatment targeted against a particular class of persons because of their social origin, circumstances of birth, or descent.

**3.3** That the authorities in Nigeria should fully implement the provisions of Chapter IV of the Nigerian Constitution relating to the protection of fundamental human rights of citizens as well as those of the ICERD, ICCPR, CEDAW, UDHR, ACHPR, CRPD, and other relevant regional and international human rights treaties and ensure that the rights of these disadvantaged and vulnerable persons are, at all times, safeguarded, by guaranteeing them the right to seek effective remedy and just and adequate reparations for any damage suffered against any acts of discrimination that violate their human rights and fundamental freedoms. All caste-based discrimination against marginalized, vulnerable, or disadvantaged populations, including those classified as *Osu* in the South-East region of Nigeria, should be explicitly addressed and prohibited.

**3.4** That the Nigerian authorities should immediately comply with the provisions of these treaties by adopting all necessary legislative, administrative, and other measures aimed at explicitly acknowledging that the class of persons classified as *Osu* are being subjected to discrimination and abuse on grounds of their origin or descent, and work towards the immediate eradication of the repugnant practice.

**3.5** That as recommended by the Human Rights Watch,<sup>34</sup> the Nigerian Government should allocate adequate funds for programs for the socio-economic and educational support of the communities or population that have faced discrimination on the basis of caste or descent as well as launch public awareness campaigns regarding legal prohibition on caste system and explaining what actions are legally prohibited and remedies available to victims of caste discrimination and abuse. It should also ensure greater participation of the affected communities and population in key institutions in the administration of justice, including the Police and the judiciary.

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<sup>34</sup> See Human Rights Watch, "Caste Discrimination: A Global Concern", A Report by the Human Rights Watch for the United Nations World Conference Against Racism, Racial Discrimination, Xenophobia, and Related Intolerance, which took place in Durban, South Africa, in September 2001, accessible at <https://www.hrw.org/report/2001/08/29/caste-discrimination/global-concern>. Accessed 08/08/2024.