

AN APPRAISAL OF THE LEGAL NEXUS BETWEEN NATIONAL SECURITY AND THE PROTECTION OF HUMAN RIGHTS STANDARDS IN NIGERIA*

Abstract

Where there is insecurity or security challenge, the rights of the people usually suffer a lot of neglect and abuse. This usually occurs where the government and the security agencies make attempts to fight the sources or situations causing the insecurity or the challenges. National security and national wellbeing which include the proper recognition, enforcement and protection of human rights are two sides of a coin. Insecurity hampers the availment of human rights and the needed environment for those whose rights are abused or likely to be abused to gain access to the facilities where they can ventilate their grievances and possibly have some redress. Most State actors also capitalize on the breakdown or absence of security to commit abuses on the rights of people they should protect, hence, the need for a study of the relationship between national security and human rights standards in Nigeria especially at this time where there is near total collapse of the security architecture in the country. It is the finding of this work that governments and their agencies believe and function in ways that clearly show that, for there to be national security, human rights must be negligently compromised; hence the high level of abuse of human rights while they purport to be fighting insecurity. We recommend that government at all level must at all times act proactively to prevent the breakdown of law and order and other vices that may result in national insecurity bearing in mind that such breakdown usually have negative effects n human rights.

Keywords: National Security, enforcement, Protection, Human Rights, Standards.

1. Introduction

Human rights are rights inherent in humans for being humans. Most nations enshrine human right in their Constitutions¹ and other key legislatures to portray how important the rights are to both the government and the citizens. Some term the rights fundamental rights and others constitute them as bills of rights². National security where it exists in the true sense of it aids the enjoyment, enforcement and protection of human rights. There is no need promising or guaranteeing citizen's human rights or even making provisions for them where there is insecurity or a breakdown of law and order which is usually a product of bad governance. Insecurity in a nation breeds and promotes abuses, neglect and poor enforcement and protection of human rights³. In most cases the breakdown of national security result in illegal possession and use of firearms and other dangerous weapons creating a situation of arms conflicts with its resultant effect of breaches of the fundamental rights of citizens including destruction of lives and property. This article shall therefore make an overview of the relationship between national security and human rights bringing out the need for measures to always be put in place to forestall the breakdown of law and order in Nigeria so as to avoid a resultant break down in the protection and enforcement of human rights.

2. Analysis of Key Terms

National Security

It is the safety of a nation against threats such as terrorism, war or espionage⁴. It is the ability and preparedness of a nation to protect and prevent itself from the threats of violence and attacks.⁵ National security can also be defined as the requirements by a nation to maintain the survival of the State through the use of economic power, diplomacy, power projection and political power. This means that national security is not just the physical protection of citizens from attacks or aggression but include running and operating a viable economic, safe environment, stable political and leadership atmosphere, peaceful and conducive livelihood⁶. National security entails the enjoyment, recognition, enforcement and protection of the human rights of the citizen, having a predictable and verifiable means of livelihood and assurances of living and the harnessing of the potentials of citizens of a nation without unnecessary challenges and hindrances⁷. It involves the protection and guarantee of the rights of citizens, marshalling economic

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¹ see Chapter iv of the Constitution of the Federal Republic of Nigeria, (CFRN) 1999 (as amended), Article 1 of the Constitution of United States of America and Chapter 5 of the Constitution of Ghana 1992 (as amended) while the South Africa constitution has its bill of rights containing the fundamental rights in Chapter 2 of the *Constitution 1996* for instance.

² *Ibid* and see also the English Bill of Rights which is an Act of Parliament signed into law in 1689.

³ The security situation in Nigeria is empirical evidence that national security is a destroyer of human rights.

⁴ See Oxford Language Dictionary at <https://www.language.oup.com> accessed 5th June, 2022.

⁵ See Collins English Dictionary at <https://www.collinsdictionary.com> accessed 24th May, 2022.

⁶ See <https://www.thoughtco.com> accessed 24th May, 2022.

⁷ *Ibid*

power to compel cooperation, maintaining effective armed forces, implementing civil defence and emergency preparedness measures, ensuring the pliability and viability of critical infrastructure and protection of the nation from internal and external threats⁸.

Protection and Enforcement

Protection is any measure taken to guard a thing against abuse, damage or infringement caused by outside forces⁹. It is all activities aimed at ensuring full respect for the rights of individuals in accordance with the letter and spirit of the relevant bodies of law¹⁰. Protection of human rights is a legal or other formal arrangements put in place to preserve civil liberties and rights. It also entails all actions taken by government and its agencies aimed at improving safety, well being and dignity of people dwelling within crises affected areas¹¹. It is a protection against danger, abuse, suffering, hurt and deprivation and ensuring that no person's human rights are unjustly taken, breached, loss or abused at all times. Enforcement on the other hand is the act of enthralling observance of or compliance with a law, rule, regulation or obligation. It is a process of making people to obey a law or rule or making a particular situation actualised or be accepted¹². It is the proper execution of the process of ensuring obedience with the law, regulation, rules, standards and social norms¹³. Enforcement of human rights therefore entails the availability, accessibility and affordability of the means of seeking redress for a breach of a right and the availment of a redress.

Human Rights Standards

Standard is the level of quality or attainment. It is also used as a measure, norm or model in comparative evaluation¹⁴. It is also a verifiable, harmonized, accepted and documented way of doing something. Standards contain technical specifications or other specified criteria put in place for persistent use as a rule, guideline or definition¹⁵. Human rights standards therefore are the level of quality, specification and criteria put in place for the recognition and protection of human rights. This involves the level at which citizens gain access to their rights and likelihood of their being recognized and how easy it is to enforce same. This can also be measured in terms of life expectancy, standard of living, access to all freedoms inherent in humans and the readiness and willing of those in authority to accord the citizens their rights and also afford them easy access to seek and obtain redress where there is or likely to be an abuse, breach or infringement on those rights¹⁶. A nation can be adjudged of having or maintaining a high human rights standard if its people can live in good environmental condition, good and accessible health care, stable economy, quality education and other high quality social amenities¹⁷.

3. Legal Safeguards for National Security and the Protection of Human Rights Standards

Certain laws are put in place to enhance national security and at the same time ensure the protection and respect of human rights in Nigeria. Such laws include the Constitution of the Federal Republic of Nigeria¹⁸, Administration of Criminal Justice Act¹⁹, the Police Act²⁰, Terrorism (Prevention) Act²¹, Armed Forces Act²², National Security Agencies Act²³, and the Official Secret Act²⁴. These laws shall be examined in the light of their provision relating to maintenance of national security and the respect and protecting of human rights in Nigeria.

⁸ See <https://www.definitions.net> accessed 24th May, 2022.

⁹ See Oxford Language Dictionary at <https://www.oed.com> accessed 24th May, 2022

¹⁰ See <https://www.humanitariancoalition.ca> accessed 24th May, 2022.

¹¹ See Oxford Languages Dictionary

¹² See <https://www.dictionarycambridge.org> accessed 24th May, 2022.

¹³ See <https://www.en.m.wikipedia.org> accessed 24th May, 2022 and see also Eseni Azu Udu, *Human rights in Africa* Lagos: Mbeyi & Associates (Nig) Lts. Pp. 1-5.

¹⁴ See Oxford Languages Dictionary op.cit

¹⁵ Ibid and see also <https://www.irena.org> accessed 24th May, 2022.

¹⁶ See Kaita Papagianni, *Good Governance Praticce for the Protection of Human Right*, office of the High Commissioner for Human rights, New York and Geneva, 2007 at asdr.org/documents-library accessed 25th May, 2022 and 'Promoting Himan Rights-good governance, the rule of Law and Democracy', special judicial conference, Vanuatu 26-30 July 2002, the Hon. John Von Doussa QC, President Australian Human Rights and equal Opportunity Commission and the preamble, Universal Declaration of Human rights GA Res. 217A(iii) UN Doc A/810 at 71 (1984).

¹⁷ *Ibid*

¹⁸ Hereinafter referred to as CFRN 1999 (as amended)

¹⁹ 2015 (hereinafter referred to as ACJA 2015)

²⁰ Cap. P.19 Law of the Federation of Nigeria (hereinafter referred to as LFN) 2004

²¹ 2013

²² Cap. A20 LFN 2004

²³ Cap N70 LFN, 2004

²⁴ Cap. 03 LFN, 2004

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

Chapter 4 of the Constitution made clear provisions on the fundamental rights²⁵ of citizens of Nigeria including right to life²⁶, right to dignity of human person²⁷, right to personal liberty²⁸, right to freedom of movement²⁹, right to freedom of thought, conscience and religion³⁰, right to private and family right,³¹ right to fair hearing³², right to freedom of expression³³ and right to freedom of peaceful assembly and association³⁴. The Constitution also provided for restriction on and derogation from these fundamental rights³⁵ and that, no law shall be invalidated by reason of the provisions of the fundamental rights if such law is reasonably justifiable in a democratic society in the interest of defence, public safety, public order, public morality or public health or for the purpose of protecting the rights and freedom of other persons³⁶. Further on the restriction and derogation from these rights, the Constitution provided that an act of the National Assembly shall not be invalidated by reason only that it provides for the taking of measures during emergency³⁷ that derogates from the provision of Sections 33 or 35 of the Constitution³⁸ and this can only be done to the extent that, the measures are reasonably justifiable for the purpose of dealing with the situation that exist during the period of emergency³⁹. Again, these are the only rights whose enforcement procedures and the court to approach if there is any breach or likelihood of breach of the rights against any person are enshrined in the Constitution. Section 46(1) of the Constitution provides: ‘Any person who alleges that any of the provisions of this chapter⁴⁰ has been, is being or likely to be contravened in any state in relation to him may apply to a High court in that State for redress’. The provision relating to the restriction and or derogation from the provisions of the fundamental rights are in most cases said to be made in the interest of national security. This is in most cases done in such a reckless and negligent manner that clearly shows a sacrifice of those rights in the alter of national security. Innocent citizen’s right including right to life, freedom of movement, right to private and family life, right to freedom of movement are freely contravened by law enforcement agents as directed by government in the name of restoring national security⁴¹.

Administration of Criminal Justice Act

Most people who are arrested and detained in either the law-enforcement agencies cells or the prisons are in most cases purportedly arrested and detained in the interest of national security. Most of them are detained beyond the constitutionally provided period and even refused bail also in the name of national security⁴². The need to reduce these ills brought about the promulgation of the Administration of Criminal Justice Act. Some of the very important provisions made by the law to ensure that there is a balance in the maintenance or enhancement of national security

²⁵Because of the importance the government attached to this right and their importance to the existence of humans, they are enshrined in no lesser law than the ground norm; the constitution of the Federal Republic of Nigeria, emphasizing their inalienability.

²⁶ CFRN 1999 (as amended) s. 33

²⁷ *Ibid* S. 34

²⁸ *Ibid*, S. 35

²⁹ *Ibid*, S.41

³⁰ *Ibid*, S. 38

³¹ *Ibid*, S. 37

³² *Ibid*, S.36

³³ *Ibid*, S.39

³⁴ *Ibid*, S.40

³⁵A democratic society and what it means has remained very controversial. Some writers have argued that democracy is relative and has no universally accepted definition, hence, we hear terms like ‘African democracy’ or ‘Western democracy’.

³⁶ See CFRN 1999 (as amended) S.45 (1)(a) & (b)

³⁷Also, the word ‘emergency’ has been given different meanings and interpretations by authors and governments. Some of the states of emergency declared in Nigeria have been seen by public commentators as not being emergencies.

³⁸ See *CFRN 1999 (as amended)* are on right to life and right to personal liberty.

³⁹Period of emergency is defined by the Constitution to mean any period during which there is in force a proclamation of a state of emergency declared by the President in exercise of the powers conferred on him under Section 305 of the constitution. See CFRN 1999 (as amended) S.45(3).

⁴⁰ That is Chapter 4 of CFRN 1999 (as amended)

⁴¹See Jukan Izzo, ‘Human rights and Security in Public Emergencies’ at <https://www.e-irinfo/2021/10/15/human-rights-and-security-in-public-emergencies> accessed 31st May, 2022 and Liora Lazarus and Benjamin J Gold, ‘Security and Human Rights: The Search for a Language of Reconciliation’ at <http://ssrn.com/abstract=1022372> accessed 31st May, 2022.

⁴²Section 35(4) of *CFRN 1999 (as amended)* provides that; any person arrested and detained shall be brought before a law within a reasonable time and if he is not tried within a period of two months from the date of his arrest or detention in the case of a person who is in custody or is not entitled to bail or three months from the date of his arrest or detention in the case of a person who has been released on bail, he shall be released on condition or unconditionally. In arrest or detention in a place where there is a court of competent jurisdiction within a radius of forty kilometers, a period of one day is said to be reasonable time and in any other case within a period of two days or such longer period as may be considered to be reasonable by the court. See the case of *Mogaji v Board of Customs* (1982) 3 NCLR. 552 and *Dokubo-Asari v FRN*(2007) 12 NWLR (pt 1048).

and the right of citizens still being respected and protected are the setting up of Administration of Criminal Justice Monitoring Committee to be headed by the Chief Judge of the Federal Capital Territory (FCT) Abuja and other members such as the Attorney General of the Federation, a Judge of the Federal High Court, the Inspector General of Police, the Comptroller General of the Nigerian Correctional Services, the Executive Secretary of the National Human Right Commission, the Director General of the Legal Aid Commission⁴³ etc. The said committee shall be responsible in ensuring speedy dispensation of criminal justice aimed at ensuring that citizens are not indiscriminately arrested and detained, reducing the period persons awaiting trial spend in detention, the number of inmates on awaiting trial and the enforcement and implementation of other measures as may be necessary for the effective dispensation of criminal justice⁴⁴.

Police Act

The police is the main civil security agency in Nigeria that handles and are responsible for the provision of civil natural security⁴⁵. In the process of purporting to discharge this statutory duty, the police had been verifiably accused of abusing the rights of those they ought to protect. These abuses usually occur when the police work against some provisions of the law⁴⁶ that established and regulate their operations. The Police Act is the main law that has elaborate provisions for the organization, disciplines, powers and duties of the Police and which regulate how the police should relate with citizens to avoid the abuse of their rights while on duty⁴⁷. The president has the power to give the Inspector General of Police such directives with respect to the maintenance and securing of public safety and public order and the Inspector General is under obligation to comply with the directives or cause them to be complied with for national security⁴⁸. To put in check human right abuse by the police, the Police Act made provisions on when a policeman cannot arrest a suspected offender without a warrant of arrest to avoid indiscriminate arrest of people. This includes arrest of a person in his home who did not commit an offence in the presence of a police officer or a person who is not a police man that suspected him of committing a crime⁴⁹. After arrest of a person by the police, the Police Act provides that, the person shall be taken before a Magistrate who has jurisdiction with respect to the offence with which the person is charged as soon as practicable after he is taken into custody⁵⁰. The law also tends to regulate how the police enter peoples premises to conduct search when it is suspected that a stolen property or a wanted person is in such a premises or house. This can be done with the police conducting the search processes with a search warrant⁵¹. The law is made to ensure that the police act reasonably to avoid breaches or abuse of the rights of the people.

Terrorism (Prevention) Act

Of recent, terrorism has become the biggest threat to national security which the security agencies, seem to find very difficult to deal with⁵². Various approaches and methods have been adopted to see how this monstrous situation can be put in check and all seems not to have yielded any remarkable results so far. It is spreading all over the nation like wild fire without any control. No part of this country has not felt the devastating effect of this heinous situation. Criminal armed groups exist in every part of the country known in various names and mode of operations and the security agencies seems helpless. This has necessitated the promulgation of the terrorism (Prevention Act) in 2011

⁴³ See *Administration of Criminal Justice Act*, 2015, S.469(1).

⁴⁴ *Ibid* S. 470 and see also Emmanuel Onyekachi Ugwu, 'The Interaction Between Human Rights and National Security' in *global Journal of Politics and law Research* vol.9 No.7, 2021, Pp 61-69 and the case of *Dibia v Igwe* (1998) 9 NWLR (pt.564) 78 and *COP v Obolo* (1989) LCN/0074 (CA).

⁴⁵ See the *Police Act S.4* that made provisions for its establishment and general duties which include prevention and detection of crime, the preservation of law and order and the protection of life and property etc.

⁴⁶ See *CFRN 1999 (as amended)* S. 214 and *Police Act and Regulations*. S.340(a-f).

⁴⁷ See the *Police Act S.4*

⁴⁸ *Ibid* S.10. The Governors seem to have same powers in their states to give the Commissioner such directives for public safety and public order but before the Commissioner can carry out such directives, it should be referred to the President for his directions. This has been a serious issue in terms of state security as the Governors are rendered incapacitated in contributing to security matters. See also *CFRN 1999 (as amended)* S. 214(4) and the *Police Act S. 10(2)* and see also O.I. Usang 'Federalism and the Nigeria Police vis-à-vis the call for the establishment of State Police in Nigeria' in *Unizik Journal of Commercial and Property Law* 8(4) 2021 Pp. 16-29.

⁴⁹ See the *Police Act Ss23-24* (1-3) and 25, the *Criminal Procedure Act Cap c41 LFN*, 2004, S.10(1-3).

⁵⁰ The provision had been variously abused by the police as the words "as soon as practicable" used in the law is usually tied to certain conditions such as payment of some money by the suspect or until he made confessional statements to the police.

⁵¹ See the *Police Act Ss 29 and 30* (1-2). Recently this abuse was meted on a Justice of the Supreme Court of Nigeria, Hon. Justice Mary Odili in her residence. Various security men stormed her residence purporting to have come to conduct a search at night.

⁵² See Mark Duerksen, 'Nigeria's Diverse security Threats', Africa Centre for Strategic studies, March 30, 2021 at www.africa-centre.org/spotlight/ accessed 2nd June 2022 and C.U. Okorafor and M.C. Ukpabi, 'Boko Haram Insurgency and National Security in Nigeria' in *International journal of Development and Management Review* at www.w.ajol.info accessed 2nd June, 2022.

and was amended in 2013⁵³. In the mist of this helplessness and bewilderment, some operations carried out or being carried out by the law enforcement agencies to curtail the devastating effects of the activities of these armed groups, the rights of citizens are usually compromised in the name of fighting national insecurity. This includes the killing of innocent people, destruction of property and inhumane treatment of those arrested in the act or suspected to have committed one terrorist act or the other⁵⁴. In human right jurisprudence, it is strongly believed that every human and his property should be treated with some dignity and respect no matter the obviousity or likelihood of their having committed a crime or used in commission of crime⁵⁵. Bearing the above in mind, the legislature while making the Terrorism (Prevention) Act enacted some provisions aimed at recognising and respecting human rights while the law is being enforces or implemented. To avoid unnecessary, prolong detention of terrorism suspects by the law enforcement agencies, the Act made provisions that, it is only by a Court order that a terrorism suspect can be detained beyond 90 days after arrest⁵⁶.

Armed Forces Act

This is the law that established and regulates all activities and engagements of the Nigerian Armed Forces⁵⁷. It provides for the expected relationship the armed forces shall have with the civilian population including the respect for human rights while performing their statutory duties of maintaining and promoting the security of Nigerian territories against external aggression and assisting the civil security agencies in the internal or national security of Nigeria where the need arises and they are called upon to so assist⁵⁸. Due to the near helpless security situation in Nigeria presently, the armed forces have consistently been part of the regular and civil security arrangement in the country due to the existence of an almost failed state of the security architecture. In carrying out their duties, the armed forces are expected especially, while dealing with civilians to be as civil as expected and not act without regard to the rights of the people. They are forbidden to steal or loot or deprive anybody of his or her property⁵⁹, or to fight or put up disorderly behaviors⁶⁰. They are not allowed to fraudulently misapply public or service property⁶¹ or to commit sexual offences⁶² such as rape, defilement, sodomy, fraternisation or having sexual relationship with fellow service personnel's spouses⁶³. The armed forces personnel are also not allowed in law to assault, unlawfully kill or cause grievous harm to another person or engage in acts of robbery, extortion, burglary, house-breaking or arson⁶⁴. In each of these offences, serious punishments ranging from terms of imprisonment to death depending on the gravity of the offence are prescribed by the law against offenders. Their trials and tribunals depend also on the offence⁶⁵. The armed forces also have powers or duty to arrest any personnel found committing an offence and such personnel shall be investigated and tried within a reasonable time and where he must be detained beyond 24 hours, it must be on the permission or order of a Commanding Officer⁶⁶.

National Security Agencies Act

This law established the defence Intelligence Agency (DIA), the National Intelligence Agency (NIA) and the State Security Service (SSS) for the effective provision of national security⁶⁷. The Defence Intelligence Agency shall be incharge of the prevention and detection of crime of military nature against the security of Nigeria; to protect and preserve all military classified matters concerning the security of Nigeria, both within and outside Nigeria⁶⁸. The

⁵³See generally O.I. Usang 'An Insight into the Legal Effects of the Establishment of State Police on Extant Police Laws and Policy in Nigeria' in IRLJ.3(3) 2021

⁵⁴See Callistar Obi, 'Challenges of Insecurity and Terrorism in Nigeria: Implication of National Development' in *International journal of Sustainable Development* vol. 08, No 02, 2015 Pp. 11-18.

⁵⁵ See *CFRN 1999 (as amended)* Ss. 33,35 and the case of *Cherancci v Cherancci* (1960) NRNL R.P 24.

⁵⁶ See *Terrorism (Prevention) Act* 2011, S. 27(1-3).

⁵⁷ The Nigerian Armed Forces are made up of the Army, the Navy and the Air force

⁵⁸Usually in normal circumstances the armed forces ought not to be part of the provision and maintenance of internal or national security of Nigeria. They are expected to only come in aid of the civil security agencies where the security situation is that which deserve extraordinary measures to handle.

⁵⁹ See *Armed Forces Act S.51*

⁶⁰ *Ibid* Ss. 54 and 55

⁶¹ *Ibid* S. 66(a-d)

⁶²These offences are notorious with the armed forces personnel. There are presently, threats by the United Nations (UN) to ban Nigeria armed forces from taking part in international peace keeping if those accused to have committed some offences in Liberia during peace keeping are not investigated and punished if found culpable.

⁶³ See *Armed Forces Act* Ss 77, 78, 79, 80 and 81

⁶⁴ *Ibid* Ss 104, 105, 106, 107, 108, 109, 110 and 111.

⁶⁵Some offences which are simple such as assault, stealing can be tried by company commander, Battalion Commander etc while more serious offences are tried by court marshal

⁶⁶ See the *Armed Forces Act*, Ss 121(1-6) and 122(1-6)

⁶⁷ See the *National Security Agencies Act*, S.1(a-c)

⁶⁸ *Ibid* S.2(1) (a-c)

National Intelligence Agency (NIA) is charged with the responsibility of general maintenance of the security of Nigeria outside Nigeria concerning matters that are not related to military issues and issues of national intelligence outside Nigeria⁶⁹. The State Security Service (SSS) is responsible for the prevention and detection within Nigeria of any crime against the internal security of Nigeria; to protect and preserve all non military classified matters concerning the internal security of Nigeria⁷⁰.

Official Secret Act

This was enacted in September, 1962 to make further provision for securing public safety by checking the publication of highly confidential information or documents that may weaken or limit the integrity of any government and by extension threaten the security of the nation⁷¹. It is made to protect governmental information that are considered to be 'classified' or 'secret' and nobody shall transmit any such information to a person or obtain, reproduce or retain classified matters which he is not authorized on behalf of the government to obtain, reproduce or retain⁷². A public officer who fails to comply with any instruction given to him on behalf of the government as to the protection of any classified matter which by virtue of his office is obtained by him or under his control is guilty of an offence⁷³. Where an officer of the Nigeria Police of a rank not lower than an Assistant Commissioner of police has a reasonable cause to believe that an item or material obtained in contravention of the provisions of the law is kept in any particular premises, he may issue a search warrant to any superior police officer to enter such premises to seize and remove any such item found in the premises. In doing this, the police officer may use such force as reasonably necessary for the purpose of executing the warrant⁷⁴. This law, it has been argued, seems to be in conflict with some key provisions of the Freedom of Information Act (FIA) and denies Nigerians the right to assess needed information and by extension breaches their right to information especially concerning or relating to governmental activities and dealings⁷⁵.

4. Nexus between National Security and Protection of Human Rights Standards

The interchange between Human rights provision, protection, respect and enforcement standards and national security are enormous⁷⁶. Where there is high standards for the respect of citizens human rights, there is always a reciprocal good conduct and behavior by citizens that aids and enhance the security situation. Where citizens are accorded the desired environment, economic, amenities, rule of law, democracy and people oriented leadership, the need for people to go into crime and criminality is always very low.⁷⁷ Depriving citizens access to the nation's common wealth, job opportunities, rule of law, equal recognition at the national level⁷⁸ of government, projects and programmes, existence of nepotism, tribalism by the government, religious intolerance, ethnicity etc as it is the case today in Nigeria, directly bred insecurity that may overwhelm the nation if care is not taken. The cumulative effect of the continued increase in the high level of unemployment of Nigerian youths that received little or no attention by successive governments remarkably contributes in the sorry state of affair of the present national insecurity. Where those in power deny the masses their right to choose their leaders through well organized, periodic, peaceful, transparent, free and fair elections, gradually, the masses would revolt in unpleasant and lawless ways including bearing and using of dangerous weapons against the government and its agencies⁷⁹. Government that effectively secures and respects the human rights of the people, possesses the best weapon in providing national security than weapons of warfare. It instills orderliness and discipline in the people and gives them a sense of belonging⁸⁰. Where people are not accorded their right to life and life is rendered worthless, they are very likely to take to crime and

⁶⁹ *Ibid* S.2(2) (a-b)

⁷⁰ *Ibid*, S.2(3) (a-c)

⁷¹ See the *Official Secret Act*, S.1(1)(a-b)

⁷² *Ibid* S.1(b)

⁷³ *Ibid* S1(2)

⁷⁴ *Ibid* S.6(1)

⁷⁵ See Henry Oyelu, 'Lawyers Divided Over Superiority of FOI to Official Secret Act' in *Law & Human Rights*, Vanguard, September 6, 2018 at www.vanguardngr.com accessed 5th June, 2022. However, it is our opinion that the Acts exist to serve different purposes in different ways. No government would allow all manner of persons access the classified information that may be inimical to national security if released. We however advocate free access to information of other nature by citizens unhindered

⁷⁶ See Liora Lazarus and Benjamin J. Goold, op.cit

⁷⁷ See Piet Hein Van Kempen 'Four Concepts of Security – A Human Rights Perspective' in *Human Rights Review* 13:1(2013) Pp 1-21 published by Oxford University.

⁷⁸ For instance, recognition and implementation of the principles of federal character principles for a federal state like Nigeria enhances sense of belonging to all and national integration and reduces tension.

⁷⁹ Authoritarianism promotes anger, annoyance and violent behaviours among the people which would gradually result in the people going after the government and its agencies as it is the situation now in Nigeria.

⁸⁰ See Piet Hein Van Kempen op. cit.

criminality. The worst happens where the government sees the proper respect and enjoyment of human rights by the citizens as an obstacle to national security, resulting in the deprivation or breach of human rights in the name of enhancing national security. It is better to prioritize human rights alongside national security since effective and proper protection of human standards automatically promote good neighbourliness and neutralizes the propensity of people going into crime and criminality, which enhance national security⁸¹. Even in the period of the so called emergencies, government need to be very cautious on how human rights are derogated from or suspended. Thoughtless derogation or suspension of human or the legal order, often paves way to systematic human right violations⁸². Rights relating to human life and dignity must not be easily derogated from or suspended by any government. The Nigerian successive governments failed to prioritize these rights. Some Nigerians are more equal than others based on tribes, ethnic, political and religious affiliations. This even extended to how criminal cases are handled and the level of attention given to them. At a point, if a person is from a certain tribe or ethnic group or a particular political inclination, he is treated different from others no matter what the situation or the offence was⁸³.

The Nigeria government⁸⁴ gave everybody and institutions the impression that human rights are of less importance to it and its agencies such as the police and the armed forces leading to the unprecedented abuse of the citizens' right that resulted in the ENDSARS protests that open a divesting wave of lawlessness and criminality in the nation and more abuses of human rights. The neglect of some ethnic or tribal groups in Nigeria also led to the springing up of a lot of agitating and separatist groups and agitators such as the Indigenous People of Biafra, the Oduduwa Republic, Arewa Republic, Niger Delta Republic Movements etc⁸⁵. These groups and agitations are in most cases carried out with sophisticated weapons leading to serious violent conflicts and abuses of human rights including killings of innocent people and destruction of property, breakdown of law and order in most parts of Nigeria, economic sabotage and humanitarian crises such as internal displacement of people and arm conflict between government agencies and non state actors resulting in increase in insecurity in Nigeria. Effectuation of fundamental rights as against prioritizing absolute powers of government within Nigeria is imperative for national security⁸⁶. It is also cheaper and more convenient to juxtapose human rights than national security. When national security is prioritized against collective human rights, it results in government systematically or inadvertently carrying on the business of governance in a dictatorial manner which the masses are likely to put resistance to and the result is breakdown of law and order and national security. Nations with good and adequate human right standards are unlikely to experience national aggressions and conflicts. It is unarguable that no right is absolute no matter how fundamental it might look like or be taken. Also, individual rights cannot be put above national security. But the problem lies with the manner of suspending or derogating from these rights that is usually in most cases done on parochial or inordinate sentiments or illogical judgments⁸⁷. There are instances in Nigeria where states of emergencies are declared suspending the law and human rights in some parts of the nation on very subjective and selfish reasons and not for the purpose of enhancing national security but to fight perceived political enemies⁸⁸.

5. Conclusion and Recommendations

The simultaneous provision, respect and enforcement of human rights and national security by a government is a tasking and onerous responsibility that seems to have some sense of mutual opposition, conflict and contradiction on the means and sources of providing them. It is not in dispute that both human rights and national security ought to be priorities to every democratic government properly so called. In Nigeria, due to extraneous factors such as tribalism, ethnicity, lack of political will and corruption, the provisions of these twin necessities seem difficult, tedious and unattainable. Granted that, where a nation is in danger or emergency situation, individual rights cannot be prioritized against national security. However, the prioritization of human rights where no emergency situation

⁸¹ *Ibid*

⁸² See Julian Izzo, 'Human Rights and Security in Public Emergencies' at <https://www.e-ir.info> accessed 5th June, 2022

⁸³ There are some public office holders who have been shielded from investigation or prosecution by the law enforcement agencies or government despite the fact that there are very strong petitions establishing prima facie cases against them because of where come from or the political parties they belong to while others with lesser or unverifiable allegations were investigated and prosecuted with questionable speed. For instance, the present Minister of Transportation Rotimi Amechi was accused of embezzling Rivers State money and nothing has been done to either arrest or prosecute him and public commentators have argued that it is because he is in the ruling party.

⁸⁴ Particularly the present regime.

⁸⁵ See Jidefor Adibe, 'Separatist Agitation in Nigeria: Causes and Trajectories' in Africa in focus Wednesday July 12, 2017 at www.brookings.edu accessed 6th June, 2022.

⁸⁶ See Liord Lazarus and Benjamin J Goold op.cit P. 12 the case of *Asari Dokubo v Federal Republic of Nigeria* (2001) LPERs 958 where the Supreme court clearly reiterated the principle of law that individual right cannot be protected against national security.

⁸⁷ See 'History of Emergency Rule in Nigeria' at www.premiumtimesng.com accessed 20th June, 2022.

⁸⁸ The state of emergency declared by former President Olusegun Obasanjo was criticized for being politically motivated to fight the Governor of Plateau state whom he believes is not his yes man.

exist, invariably lead to the enhancement of national peace, integration and of course security. A government that cherishes national security must first and foremost cherish human rights and ensure high standards in their respect, enforcement and enjoyment by the people. The following measures may help: Government should pay more attention to the respect for human rights as this reduces disgruntlement, hatred and aggression that usually lead to lawlessness, strife and revolutionary activities that bring down the nation's security. Provisions in the Constitution of the Federal Republic of Nigeria and other laws relating to the suspension and derogation from some human rights should be made more specific showing clearly the extent such suspension and derogation can be done and not leaving it to the discretion of those in power or to the courts to decide on the general provisions of the law. Democracy and good governance should be cherished, demonstrated and practiced by government in Nigeria. This would go a long way to calm the polity and check the propensity of people taking to violence, and disputes that may degenerate to armed conflicts. Nigerians must practice true federalism by all means and purposes. Every tribe, nation, ethnic group in Nigeria must be given a sense of belonging. Tribalism, nepotism, ethnicity must be de-emphasized to avert separatist agitations and anger that usually breed insecurity. Special Courts should be created that shall handle disputes relating to abuse of human rights and the process of accessing such courts be made easier and more affordable.