

## HUMAN RIGHTS AND THE RULE OF LAW IN AFRICA

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### Abstract

*The aim of this paper is to contend that human rights are protected by the rule of law and thus arbitrary breach or suspension of the rule of law amounts to a violation of human rights. Besides, this paper attempts to discuss some conditions necessary for the maintenance of the rule of law and human rights. The rest of this paper will conceptualize the terms, human rights and the rule of law. It will thereafter discuss their connections and cases of their contraventions in Africa. Finally, the paper will draw a conclusion.*

**Keywords:** Rule of Law, Africa, Nigeria, Human Rights

### Introduction

Human rights first came to prominence and gain momentum in socio-political discourses on the global stage after the Second World War (1935-1945). Thus, the issue of human rights, as a global concern, is a twentieth and twenty-first century phenomenon (Udogu, 2004). The concept of human rights is developed from the theory of natural law that enunciates inherent equality and dignity of all human beings. Ancient Greeks and the Romans borrowed this idea of human rights from the natural law and used it to mould the law that governed their empires (Donnelly, 2006) and strove to live by it.

The idea of human rights has evolved over time with the creation of English Magna Carta ('The Great Charter') in 1215 that grants certain individual rights and subjects every citizen to the law, thus bringing to an end a monarchical absolutism. The idea receives wide currency with the United Nations Universal Declaration of Human Rights (UDHR) in 1948 complemented by international human rights conventions and instruments that endorse the principle of universality of human rights.

The phrase 'rule of law' was first used in the sixteenth century by Samuel Rutherford, a Scottish theologian, in his argument against the divine rights of kings. The concept was later popularized in the nineteenth century by a British jurist, Professor A. V. Dicey, precisely in the year 1945. Rule of law serves as a legal principle by which a nation or country is governed. It subjects every citizen (the rulers and the ruled) to the law, as opposed to autocracy or dictatorship which places the ruler above the law.

Since September 11, 2001 terrorist attacks on the United States, many countries have exploited the post-September 2001 atmosphere of insecurity to adopt new counter-terrorism measures that breach international human rights law in the name of national security. The attacks have heralded an era of what has been described as 'defensive democracy' with all its attendant violation of civil liberties and human rights as casualties of defensive measures (Hickman, 2005). For instance, the September 11 attacks on the United State coupled with the spate of terrorist attacks across the Nigerian nation which first took place on October 11, 2010, have engendered a fraught atmosphere of insecurity in Africa, especially in Sub-Saharan Africa.

Regrettably, some African governments have capitalized on post-September 11 defensive postures to suspend the rule of law at will, keep human rights in abeyance at the slightest provocation, and ruthlessly suppress critical and dissenting voices under the guise of defending the sovereignty of a state and safeguarding citizens. These find expression in flagrant disregard for the rule of law, arbitrary arrest and detention, inhuman or degrading treatment, extra-judicial killings, denial of the right to peaceful demonstration and self-determination, and suppression of the freedom of the press, all in a bid to maintain the status quo and keep the masses in perpetual servitude.

The aim of this paper is to contend that human rights are protected by the rule of law and thus arbitrary breach or suspension of the rule of law amounts to a violation of human rights. Besides, this paper attempts to discuss some conditions necessary for the maintenance of the rule of law and human rights. The rest of this paper will conceptualize the terms, human rights and the rule of law. It will thereafter discuss their connections and cases of their contraventions in Africa. Finally, the paper will draw a conclusion.

### **Concept of Human Rights**

Human rights are natural and inalienable rights to which human beings are entitled by virtue of being humans. They are moral norms or principles which

help to protect human persons from severe legal, social and political abuses in all countries or societies and cultures (Nickel, 2014). They are broadly conceived as:

The basic socio-economic, political and moral principles of just and fair treatment of the individual person or groups, generally arrived at by experience, common sense and some consensus, and confirmable either by municipal law and/or international treaties and conventions, all of which are influenced by the stage of human development, diverse interests and ideologies (Igwe, 2004, p. 165).

Although human rights (legal rights) are recognized and protected by municipal and international laws, they predate positive laws and thus could not be repealed by them. The role of international treaties or conventions and municipal laws is to legitimize human rights and ensure their realization for authentic human development. In this regard, Obaseki (1992, pp. 246-247) states:

Human rights are legally recognised and protected to secure for each individual the fullest and freest development of personality and spiritual, moral and other independence. They are conceived as rights inherent in individuals as rational free willing creatures, not conferred by some positive law nor capable of being abridged or abrogated by positive law.

Locke asserts that natural rights originate from the natural law which “teaches all mankind who will but consult it that being all equal and independent, no one ought to harm another in his life, health, liberty or possession....” (2003, p. 102). Thus, Article 1 of the UDHR affirms that “all human beings are born free and equal in dignity and rights”. Human rights are said to be fundamental since they are “external and universal, common to mankind, ante-dating the state and funded upon natural law” (Bazza & Udeagbala, 2018, p. 221).

Oruche (1989) states that for a right to be qualified as a human rights, the following criterion must be met: 1. It must be possessed by all human beings as well as only by human beings. 2. It must be possessed equally by all human beings. 3. It must be claimed equally against any and every other human being. Given that human rights are of universal application, the rights ought to be respected and protected at all times without discrimination on the grounds of race, region, religion, gender, and so forth.

Some fundamental human rights embodied in the UN Universal Declaration of Human Rights (as cited in Oyeneye, Onyenwenu & Olusunde, 2006) in 1948 include: 1. Right to life. 2. Right to personal liberty. 3. Right to dignity of the person. 4. Right to private and family life. 5. Right to fair hearing/trial. 6. Right to own property. 7. Right to freedom of opinion, expression and the press. 8. Right to peaceful assembly and association. 9. Right to freedom of investment. 10. Right to freedom from domination. 11. Right not to be subjected to arbitrary arrest, detention or exile. 12. Right to freedom from discrimination. 13. Right not to be subjected to torture or to cruel, inhuman or degrading treatment. 14. Right to freedom of thought, conscience and religion. 15. Right to gainful employment.

Basically, human rights can be categorized into two, namely, legal and moral rights. Legal rights are those rights found in legal codes and are therefore recognized and protected by the law (Odimegwu, 2009). They include, inter alia, the right to life, the right to property, the right to fair hearing/trial, the right to peaceful assembly and association, the right to freedom of opinion, expression, and the press, the right not to be subjected to inhuman or degrading treatment. Moral rights refer to those rights that exist prior to and independent of any legal codes or guarantees of any institution (Ekwutosi, 2006). Moral rights include economic and social rights such as the right to gainful employment, the right to adequate food, shelter and clothing, the right to basic health services and the right to quality education.

While legal rights are legally enforceable, moral rights are not legally enforceable in most countries like Nigeria, albeit they are enshrined in their constitutions. On the whole, human rights are rooted in the inherent dignity and equality of all human persons. They are fundamental to human existence and are necessary for the maintenance of human dignity, self-actualization, and happiness (Omeregbe, 1994). This is because they embody requisite standards for leading minimally good life without which it would be difficult for humans to develop their potential and attain happiness (Ejike, 2018).

### **Rule of Law**

The rule of law is “the absolute supremacy or predominance of regular law as opposed to the influence of arbitrary power, and excludes the existence of arbitrariness of prerogative, or even of wide discretionary authority on the part of the government” (Dicey 1885, as cited in Elegido, 1994, p. 185). This means that the rule of law, as administered by the ordinary courts of law, has supremacy

over the authority of a state, rulers and all other citizens. By this definition, Dicey (1885, as cited in Mujuzi, 2012, p. 92) means that “no man is punished or can be lawfully made to suffer in body or goods except for a distinct breach of law established in the ordinary legal manner before the ordinary courts of the land.”

The rule of law refers to “a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards.” (United Nations Security Council, 2004, para. 6). This definition suggests that the rule of law loses its essence when it is not consonant with human rights standards. Meeting the standards requires taking measures to ensure strict adherence to the ideals of supremacy of law, equality before the law, and fairness in the protection and vindication of human rights.

As a legal principle, the rule of law therefore requires that a government should be instituted and its power be limited according to the laws of the land and it should be committed to the preservation of rights of individuals, all of whom are equally subject to the law (Enemuo, 2000). Governmental authority must be exercised in a manner that infringes upon the right of individuals.

### **Principles of the Rule of Law**

The basic tenets of the rule of law are supremacy of the law, equality before the law, and the right to personal liberty.

#### **Supremacy of Law**

The rule of law is a standing rule that is supreme to both the rulers and the ruled. It implies that both the rulers and the ruled are guided by law and their actions are regulated by law without any ‘sacred cow’ or anybody above the law” (Omeregbe, 2007, p. 115). It requires the rejection of ‘rule of man’ and that the authority of government must not be exercised arbitrarily or according to the arbitrary whims of rulers (Chesterman, 2013).

Supremacy of law implies that all accused persons should be given fair hearing or trial and , if found guilty, should be punished according to the law, no matter how highly placed the culprits are. The rule of law cannot be supreme in actuality unless the judiciary is independent to apply the law to specific cases and all governmental institutions abide by court rulings.

### **Equality before the Law**

This means that all citizens (the government and the governed) are equal before the law as administered by the ordinary court. The principle of equality before the law implies that “every man, whatever his rank or condition, is subject to the ordinary law of the realm and amenable to the jurisdiction of the ordinary tribunals” (Dicey 1885, as cited in Mujuzi, 2012, p. 92).

The principle insists that everybody should be given equal protection by law, irrespective of their social status and affluence. It entails equality with respect to human rights, security of lives and property, administration of justice, and so forth (Nwabueze, as cited in Omeregbe, 2007). The principle of equality therefore requires that the law must be equally applied to all persons, offering equal protection without prejudicial discrimination (Chesterman, 2013) and that everybody has an equal access to legal facilities.

### **Right to Personal Liberty**

This principle requires that fundamental human rights as enshrined in the Constitution must not be violated. Some of these rights are the right to life, property, security, and personal freedom, the right to freedom of opinion, expression, and the press, the right to freedom of assembly and association, the right not to be subjected to arbitrary arrest or detention, and so forth. A society or nation under the rule of law must be the one “in which liberty, equality and fraternity of the citizens are cherished, preserved and protected” (Omeregbe, 2007, p. 117). To ensure the sustainability of the rule of law, the actions of both the government and individuals must not rob other citizens of their legal rights.

### **Connections between the Rule of Law and Human Rights**

From our explanations of the concept of the rule of law, it is evident that human rights are intrinsic to the rule of law. Human rights and the rule of law are inextricably linked and mutually reinforcing. The rule of law is said to be strong in a civil society where human rights are respected, safeguarded, and promoted. Without a strong rule of law, human rights cannot be protected and its violation cannot be redressed. Courts of law exist to safeguard human rights and redress their abuse and violation. Hence, Donnelly (2006, p. 39) views rights “as remedies offered by law, as conclusions drawn within a legal system, or, in more advanced

theory, as reasons in the decision-making process that will trump competing reasons.”

Zimmerli (1971, p. 24) asserts that “certain requirements raised by the rule of law principle are congruent with some demands which are put forward under the idea of human rights.” Therefore, human rights are violated when the ideal of the rule of law is contravened. Human rights are not only statements of entitlements, but also means of advancing the rule of law. The rule of law governs institutions of government as well as members of the public. It protects citizens against the tyranny and arbitrariness of their government, and private violence. It is “the first defense against arbitrary power” (International Commission of Jurists, 2005, p. 350).

The courts play a central role in maintaining the rule of law and advancing human rights. According to Donnelly (2006, p. 42): “Historically, the courts have two important roles in maintaining the rule of law: (i) protecting civil liberties by subjecting government officials to the rule of law and (ii) contributing to the control of private violence by encouraging disputants to bring their disputes to court and abide by the result.” When law courts apply the rule of law in the administration of justice, it does not only keep in check arbitrary whims of corrupt office holders, but also boost citizens’ confidence in the judiciary and increase their willingness to bring their disputes to courts of law, thus minimizing incidents of private violence, which means reducing human rights abuse and violations.

Violation of human rights undermines public confidence in the rule of law but a respect for human rights builds up public confidence in the rule of law. When there is respect for the rule of law, citizens would be disposed to take their grievances to court rather than resorting to violence. It therefore stands to reason that to maintain the rule of law is to advance human rights. The maintenance of the rule of law entails protection and promotion of human rights by the courts. Erosion of the rule of law or its flagrant disregard jeopardizes human rights and, in the long run, engenders erosion of the rights. The inextricable connection between human rights and the rule of law is affirmed in the UDHR in this way: “It is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law.”

Rather than resorting to terrorism and revolutions which further violate human rights, citizens are encouraged to take their grievances and disputes to court and

sue any tyrannical government that flagrantly violates their rights when their rights are recognized and protected by courts of law. The courts exist to administer justice in the interest of public welfare. In other words, the need to serve justice informs the establishment of law courts. But justice cannot be administered without respect for and protection of human rights. The rule of law is that implementation mechanism, a vehicle for protection and promotion of human rights (United Nations and the Rule of Law, n.d.). Human rights are subject to abuse without a strong rule of law, thus hampering the realization of justice in a state.

It is in recognition of the indispensability of respect for human rights in achieving justice and peace in societies that UN Universal Declaration of Human Rights begins its preamble by stipulating that “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.” It is worthy of note that the application of the rule of law and administration of justice by the judiciary without full implementation of law by the executive undermine the principles of the rule of law and endanger human rights. The extent to which a government is subject to the rule of law determines how fundamental human rights are protected and promoted.

If the executive whose primary duty is to execute the law flagrantly breaches the rule of law and disregards court rulings, then the judicial system is weakened and the protection of human rights can no longer be guaranteed (Ejike, 2018). Again, human rights which are tied to the rule of law can only be guaranteed when the judiciary is independent and impartial. Government must not interfere with the judicial process or undermine the integrity of the judiciary to ensure proper administration of justice in line with the international standards of independence, due process and fair trial. In the light of this, the African Commission holds that:

It is impossible to ensure the rule of law, upon which human rights depend, without guaranteeing that courts and tribunals resolve disputes both of a criminal and civil character free of any form of pressure or interference. The alternative to the rule of law is the rule of power, which is typically arbitrary, self-interested and subject to influences which may have nothing to do with the applicable law or the factual merits of the dispute. Without the rule of law and the assurance that comes from an independent judiciary, it is obvious that



equality before the law will not exist (as cited in Mujuzi, 2012, p. 96).

### **Cases of Contravention of Human Rights and the Rule of Law in Africa**

Some African countries have exploited the global call for defensive measures in the wake of September 11, 2001 terrorist attacks on the US to infringe on basic rights of their citizens under the guise of threat to national security. The current disturbing trend is that any plan for peaceful demonstrations or protests against a government's maladministration, obnoxious policies or tyrannies is more often than not misconstrued deliberately as an insurrection which must be resisted at all costs. Consequently, the right to personal liberty, peaceful demonstration, fair trial or hearing, freedom of opinion, expression and the press, freedom of assembly and association, the right not to be subjected to arbitrary arrest or detention, and so forth have been trampled upon at will.

For instance, in Nigeria, Col. Sambo Dasuki (rtd.), former National Security Adviser, who was charged with diversion of funds and illegal possession of fire arms, was granted bail on different occasions by various courts but court rulings were flagrantly disobeyed. On November 3, 2015, Abuja Division of the Federal High Court granted Dasuki permission to travel abroad for weeks for medical reasons and ordered that his passport be released. But the State Security service (SSS) refused to comply with the court ruling (Okakwu, 2017). On December 18, 2015, the same Dasuki was granted bail with a condition to provide a bond of N250 million. Though Dasuki met the bail condition, the Nigerian government flouted the court order (Okakwu, 2017).

Again, on December 21, 2015, Dasuki, Bashir Yuguda (former Minister of State for Finance), Attahiru Bafarawa (former Sokoto Governor) and others were charged with misappropriation of funds by Economic and Financial Crimes Commission (EFCC). He was granted bail with conditions which he fulfilled, but the SSS refused to release him. He took the case to the Economic Community of West Africa (ECOWAS) court which ruled on the matter on October 4, 2016. The court again granted Dasuki bail and ordered the Nigerian government to pay "N15 million to the defendant as damages for his illegal and arbitrary detention" (Okakwu, 2017, para. 22). On 7th January and 6th April, 2017, the Federal High Court in Abuja reaffirmed the indisputability of the previous court rulings granting Mr. Dasuki bail. Despite all these court rulings, he was still detained in Kuje Maximum Prisons (Ejike, 2018).

Moreover, Mr Nnamdi Kanu, the leader of the indigenous People of Biafra (IPOB), a secessionist group who is lawfully and peacefully pursuing its right to self-determination, was granted bail by the Magistrate Court for treason charges with strident conditions on October 19, 2015 (Nnochiri, 2017). Although he fully met the bail conditions, the Nigerian government utterly disobeyed the rule of law, and continued to detain him. Reacting to the government's contempt of court, Obetta (as cited in Amaize et al, 2015) avows:

I have not seen or heard any place where a court grants bail and the person is not released. Under UN and African charter, it is enshrined that once bail is granted, you release the person upon meeting the bail conditions. We are sliding to days of Decree 2 and 4 of 1984. This is pure dictatorship. (Nnamdi Kanu has met bail conditions - Obetta, his lawyer section, para. 3).

Furthermore, Mr Kanu was granted bail unconditionally by a Federal High court on December 17, 2015, stressing that Kanu was entitled to his right to liberty as enshrined in the Constitution and that it violates his right to fair trial to detain him for two months without trial (Nnochiri, 2015). Rather than comply with the court order, the government detained him and filed more charges to ensure his continued detention.

Again, Mr Sheikh Ibrahim El-Zakzaky, the leader of a Shiite group, Islamic Movement of Nigeria (IMN), was arrested with his wife after a clash between IMN and officers of the Nigerian army which led to the alleged massacre of at least 347 members of IMN by the military (Okakwu, 2017). They were detained for many months without trial. On account of violation of their right to fair trial or hearing, a Federal High Court ordered their release and mandated the government to pay a fine of N50 million to the detainees and provide accommodation for them and their family within 45 days (Okakwu, 2017).

The government failed to comply with the ruling but rather appealed against it 10 days after the ultimatum had elapsed. In April 2018, Shiites, who were protesting peacefully against the unlawful detention of their leader, were fired teargas by the Nigerian police which led to the death of many people, while others sustained injuries and at least 115 of the protesters were detained by the police (Amaechi, 2019).

What is more, a presidential candidate of the African Action Congress (AAC) in 2019, Mr Omoyele Sowore was arrested on August 2019 after he called for a nationwide protest against perceived maladministration by the President Buhari-led government, and charged with treason. After the order issued by a Federal High Court for the security agency to detain him for 45 days had elapsed, the court ruled that there was no cogent reason to warrant his continued detention and thus should be released within 24 hours. However, Department of State Service (DSS) continued to detain Sowore in utter contempt for the court order (Nnochiri, 2019). Despite the section 36 of the 1999 Nigerian Constitution that stipulates that an accused person is presumed innocent until he is found guilty of an offence, DSS failed to comply with the court order without adducing any evidence to substantiate the charge that Sowore planned to overthrow the government of Nigeria.

It could be recalled that the right of Nigerians to protest against the government without first obtaining security permit by the police was upheld by the Court of Appeal in its judgement in 2008 after the incumbent President, Muhammadu Buhari challenged the authority of the State for disbanding him from staging a protest, on account of losing election under the defunct All Nigeria Peoples Party (ANPP) in 2013 (Falana, 2019, as cited in Nnochiri, 2019).

In Zimbabwe, during the Mugabe-led government that lasted for thirty years (1987-2017), a climate of pervasive impunity, human rights abuse and violations, erosion of the rule of law, and unlawful government's interference in criminal justice system reigned supreme. The ruling Zimbabwe African National Union-Patriotic Front (ZANU-PF) transformed Zimbabwe's police force into its stooge partisan element and agent of repression and employed the police to suppress dissenting voices and subject them to unwarranted harassment, arbitrary arrest, and illegal detention, while encouraging and condoning human rights abuse and violations by ZANU-PF supporters.

The police arbitrarily arrested and detained leaders of the Movement for Democratic Change (MDC) without charges. For instance, Human Rights Watch (2019) reports that on October 16, 2008, police assaulted, arrested and detained several members of Women of Zimbabwe Arise (WOZA) without charge, while their two leaders, Jenni Williams and Magondonga Mahlangu, who were arrested and charged with concocted offence, were denied bail and detained beyond the 48-hour statutory limit in contempt of court rulings. On September 18, 2008, Takavafira Zhou, the president of the Progressive Teachers' Union of Zimbabwe

(PTUZ) was arrested by the police and detained without a charge for four days without access to water, blankets and a toilet (Human Rights Watch, 2009)

Several political dissenters who were formerly remanded in custody told Human Rights watch that they were subjected to inhuman treatment or punishment by the police while in custody. ZANU-PF supporters enjoyed a de facto immunity from persecution, as the police across the country were instructed between April and July 2008 not to arrest to investigate ZANU-PF supporters implicated in political violence (Human Rights Watch, 2009). Human Rights Watch (2009) found that since March 29, 2008 general elections, the supporters were perpetrators of at least 163 politically motivated extrajudicial killings and, regrettably, only two perpetrators were arrested and none was persecuted.

For instance, no arrest or investigation was made when Joshua Bakacheza, an MDC driver, was murdered on June 24, 2008, MDC councillor, Gibbs Chironga, and three others were massacred in Chiweshe on June 20, 2008 by the supporters, six people were killed by members of the ZANU-PF militia on May 5, 2008 in Chaona, Kadombo Chitokwa and thousands of others were abducted and beaten by ZANU-PF youth (Human Rights Watch, 2019). Human Rights Watch also noted that Mugabe-led government bribed judiciary and public persecutors and instructed them to incarcerate opposition members in jail as long as possible.

In Gambia, during a twenty-two year (1996-2017) reign of Gambia's President, Yahya Jammeh, there was a reckless abuse and violation of human rights. The tyrannical President employed state apparatus to ruthlessly suppressed political dissenters and subject them to arbitrary arrest and detention, extra-judicial killings, torture and other inhuman or degrading treatment. For example, it was reported that score of Gambians were arbitrarily imprisoned, including the prisoners of conscience, Amadou Sanneh and Ousainou Darboe for participating in a peaceful protest ("Gambia 2017/2018 Amnesty International" n.d.). Again, a political activist, Solo Sandong died in detention shortly after his arrest, having been beaten to death by notorious and dreaded officials of National Intelligence Agency (Aljazeera, 2017).. In addition, score of West African Migrants were allegedly murdered during Jammeh's authoritarian rule ("Gambia Probes Human Rights Abuse of Jammeh's Regime," 2018).

In the Republic of Botswana, a professor of political science at the University of Botswana, Kenneth Alfred Good from Australia, was declared a prohibited immigrant and deported by the government in 2005 for publishing an article (a book chapter) critical of the government, without being given a chance to fair

hearing (Mujuzi, 2012), thus denying him the right to freedom of expression and fair hearing. This prompted the African Commission (as cited in Mujuzi, 2012, p. 97) to assert that “it makes a mockery of justice and the rule of law for a person legally admitted to a country to all of a sudden be told to leave against his will and he/she is not given reasons for the expulsion.”

### **Concluding Reflections**

We have argued in this paper that human rights and the rule of law are inextricably bound up with each other. Though human rights are distinct from the rule of law, they are inseparable. Our discussions of the concept of the rule of law clearly indicate that human rights are integral element of the rule of law. Human rights are tied to the rule of law. Without a strong rule of law, human rights cannot be protected and realized. The respect for, protection and realization of human rights depend to a large extent on the application and the implementation of the rule of law.

Human rights are infringed upon when the rule of law is ineffective. The rule of law is ineffective when it is not consistent with its ideals and international human rights norms and standards. To ensure strict adherence to the principles of the rule of law, and respect for human rights, the judiciary must be completely independent. Independence of the judiciary ensures that justice is dispensed without fear or favour. If the judiciary is weak and is being interfered by the other institutions of government, it erodes people’s confidence in the judiciary to tackle human rights abuse and violations. Erosion of public trust in the judiciary engenders the use of agitation and violence to right a wrong, thus furthering human rights abuse and violations in societies.

Human rights are also ineffective when the executive fails to enforce the rule of law that is independently applied by the judiciary as we have shown in some cases of contravention of the rule of law and human rights in some African countries. The implementation of the rule of law must respect principles of due process, reasonableness, and equality since the legal subject is a bearer of human rights (Dyzenhaus, 2006, as cited in Criddle & Fox-Decent, 2012). African government should not used national security as a justification for violating human rights and flagrantly disregarding the rule of law in their jurisdictions.

Adoption of defensive measures against threats to national security should be placed within the rule of law and framework of human rights. African governments can strike a balance between national security and human rights by

ensuring that law enforcement agency observes its rules of engagement and maintains international best standards, codes and practices. Protection and promotion of human rights therefore require a joint commitment of all governmental institutions to the rule of law and international human rights standards. The rule of law “should be employed to safeguard and advance the will of the people and political rights of the individual and to establish social, economic, educational and cultural conditions under which the individual may achieve his dignity and realize his legislative aspirations.... (Lagos Conference, 1961, p. 11). The challenge of human rights in Africa is making economic, social, and cultural rights justiciable so that they can be legally protected and redressed when they are violated. Justiciability of these rights guarantees freedom needed to live in dignity and achieve human potential.

### References

- Aljazeera (2017, March 9). Remains of opposition activist Solo Sandeng exhumed. Retrieved from <https://www.aljazeera.com>
- Amaechi, I. (2019, February 14). The odds against Buhari on Saturday. *Vanguard Nigeria*. Retrieved from <https://www.vanguardngr.com>
- Bazza, M. B. & Udeagbala, L. O. (2018). Human rights and religious fundamentalism in the north east of Nigeria. In A. Kanu & E. J. O. Ndubisi (Eds.). *Human rights in Africa: Perspective within the ecology of religion, history and governance*. (pp. 217-230). Mauritius: Lambert academic Publishing.
- Criddle, E. J. & Fox-Decent, E. (2012). Human rights, emergencies, and the rule of law. *Human Rights Quarterly*, 34, (1): 39-87. Retrieved from <https://www.jstor.org/stable/41345471>
- Donnelly, S. J. M. (2006). Reflecting on the rule of law: Its reciprocal relation with rights, legitimacy, and other concepts and institutions. *The Annals of the American Academy of Political and Social Science*, 603: 37-53. Retrieved from <https://www.jstor.org/stable/25097756>
- Ejike, E. C. (2018). Violation of social contracts: An impediment to national integration in Nigeria. Paper Presented at the 2018 Faculty of Arts Annual International Conference on “Humanities, Ethnicity and National Integration” at Nnamdi Azikiwe University, Awka, Anambra State, Nigeria, May 18.

Ejike, E. C. (2018). Terrorism and human rights in Nigeria: A moral perspective. In A. Kanu & E. J. O. Ndubisi (Eds.). *Human rights in Africa: Perspective within the ecology of religion, history and governance*. (pp. 217-230). Mauritius: Lambert academic Publishing.

Ekwutosi, C. M. (2006). *Basic issues in ethics*. Nimo: Rex Charles & Patrick Ltd.

Elegido, J. M. (1994). *Jurisprudence*. Ibadan: Spectrum Law Series.

Enemuo, F. C. (2000). Democracy, human rights and the rule of law. In R. Anifowose & F. C. Enemuo (Eds.). *Elements of politics*. (pp. 141-155). Yaba: San Iroanusi Publications.

Gambia 2017/2018 Amnesty International. Retrieved September 30, 2019, from <https://www.amnesty.org/en/countries/africa/gambia/report-gambia/>

Gambia Probes Human Rights Abuses of Jammeh's Regime, 16 October 2018. Retrieved September 28, 2019, from <https://leadership.ng/2018/10/16/gambia-probes-human-rights-abuses-of-jammehs-regime/>

Hickman, T. R. (2005). Between human rights and the rule of law: Indefinite detention and derogation model of constitutionalism. *The Modern Law Review*, 68 (4): 655-668. Retrieved from <https://www.jstor.org/stable/3699208>

Human Rights Watch (2019). Our hands are tied: Erosion of the rule of law in Zimbabwe. Retrieved October 6, 2019, from <https://www.hrw.org/report/2008/11/08/our-hands-are-tied/erosion-rule-law-zimbabwe>

Igwe, O. (2004). *Politics and globe dictionary*. Enugu: Zik Chuks Nig.

International Commission of Jurist (2005). The Berlin Declaration: The ICJ declaration of upholding human rights and the rule of law in combating

- terrorism. *Human Rights Quarterly*, 27 (1): 350-356. Retrieved from <https://www.jstor.org/stable/20069788>
- Lagos Conference (1961). *African conference on the rule of law*. Report of the Proceedings. Geneva: International Commission of Jurists.
- Locke, J. (2003). *Two treatise of government and a letter concerning toleration*. I. Shapiro, (Ed). New Haven and London: Yale University, Press.
- Mujuzi, J. D. (2012). The rule of law: approaches of the African Commission on human and peoples' rights and selected African states. *African Human Rights Law Journal*, 12: 89-111.
- Nickel, J. (2014). Human rights. *Stanford encyclopedia of philosophy*. Retrieved from <https://plato.stanford>
- Nnochiri, I. (2017, December 17). Biafra: Court orders Kanu's release from detention. *Vanguard Nigeria*. Retrieved from <https://www.vanguardngr.com>
- Nnochiri, I. (2019, September 24). Breaking: Court orders DSS to release Sowore immediately. *Vanguard Nigeria*. Retrieved from <https://www.vanguardngr.com>
- Obaseki, A. O. (1992). The judiciary and human rights. In A. U. Kalu & Y. Osibanjo (Eds.). *Perspectives on human rights* (pp. 246-272). Lagos: Federal Ministry of Justice.
- Odimegwu, I. F. H. (2009). Emerging issues in human rights and human rights education in Nigeria. In M. Ikejiani-Clark (Ed.), *Peace Studies and conflict resolution in Nigeria: A Reader*. (pp. 351-375). Ibadan: Spectrum Books Limited.
- Okakwu, E. (2017, June 11). Special report: How Buhari administration serially disobeys court orders. *Premium Times Nigeria*. Retrieved from <https://www.premiumtimesng.com>
- Omeregbe, J. I. (1993). *Ethics: A systematic and historical study*. Ikeja: Joja



Educational Research and Publishers.

Omeregbe, J. I. (1994). *An introduction to philosophical jurisprudence*. Lagos: Joja Educational Research and Publishers Ltd.

Omeregbe, J. I. (2007). *Socio-political philosophy and international relations: A systematic and historical study* (Vol. 1). Ikeja: Joja Educational Research and Publishers Ltd.

Oruche, J. O. (1989). *Basic issues of human rights protection*. Onitsha: Etukokwu Publishers Nigeria Ltd.

Oyeneye, I., Onyenwenu, M., & Olosunde, E. B. (2006). *Round-up government: A complete guide*, Second edition. Ikeja: Learn Africa Plc.

The United Nations (1948). Universal Declaration of Human Rights. Retrieved from <https://www.un.org/en/universal-declaration-human-rights>

Udogu, E. I. (2004). Human rights and minorities: A theoretical overview. In P. T. Zeleza & P. J. McConnaughay (Eds.). *Human rights, the rule of law and development in Africa*. (pp. 81-93). Pennsylvania: University of Pennsylvania Press.

United Nations and the Rule of Law (n.d.). Rule of law and human rights. Retrieved from <https://www.un.org/ruleoflaw/rule-of-law-and-human-rights/>

Zimmerli, C. H. (1971). Human rights and the rule of law in Southern Rhodesia. *The International and Comparative Law Quarterly*, 20 (2): 239-300. Retrieved from <https://www.jstor.org/stable/758031>