

EVALUATION OF HUMAN SECURITY UNDER THE CONSTITUTION

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Abstract

Human security is about human life and dignity expressed as freedom from fear and freedom from want. To that extent human security has in its embrace issues such as environmental degradation, human rights, equity, maximizing human potentials, health, labour standards, organized crime, small arms proliferation, religion, ethnicity, gender identity, governance, civil society, hunger, and internal conflict. A state's provision for the guarantee of human security of her citizens is the basis for her success or failure because the sovereignty of the state is guaranteed only if it derives from the sovereignty of her citizens. This article argues that by placing the all-important positive rights with human security potentials and reciprocal citizens' duties to the state in a part of the 1999 Constitution that is not justiciable, the Nigerian state has robbed itself of the recipe for survival and risks failing as a state. This work advocates the integration of diplomacy, military force, intelligence, law enforcement, internal security, education, health and human services into a single system that can respond to basic threats to human security of citizens such as terrorism, weapons proliferation, climate change and hunger by sweeping reforms that will synchronize the fundamental objectives of state policy with the fundamental rights provisions of the 1999 Constitution so to erase the notion of a chasm between the state and her citizens and guarantee survival of the Nigerian state.

Keywords: *Constitution, Developing State, Security, Human Rights, Sovereignty.*

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INTRODUCTION

National security deals with the safety of sovereign political communities or states. The common understanding has always been that the security of individual constituents of a sovereign political community is a deliverable that naturally flows from the safety of sovereign political community i.e. national security. This relationship, it is assumed, arises by virtue of the individual's membership, residence or allegiance to a particular sovereign political community and a belief that sovereign political communities are entitled and competent to determine the nature of their security interests and how best to address them.¹

The concept of security is most often captured in the constitutions of various sovereign states. It is as well substantiated by the practice of the international community wherein all sovereign states are deemed legally equal,² so entitled to preserve what is of value and their way of life from the jealousies and intrigues of their neighbours.³ Also relevant in this respect are the non-interference, territorial integrity, and political independence principles of international law. However, failed, failing and unjust states who still retain the rights granted by their constitutions, practice of the international community, and the fundamental principles of international law even when such states have become unable and or unwilling to provide security for their citizens or have as much become threats to their own citizens and constituents do present for the international community a new set of problems. Part of the problem currently includes the existence of conflict between the rights the states are willing to guarantee or guarantees for her citizens and the rights the citizens are entitled to as citizens of a global village. It is against this background that this article sets out to isolate and interrogate the human security components of the Nigerian 1999 Constitution with the view to ascertaining whether or not Nigerian citizens have a fair deal in terms of actualizing or meeting their human security needs.

HUMAN SECURITY

Human security as a concept became quite popular by its appearance in the United Nations Human Development Report of 1994⁴ wherein it was posited that the main concern of human security is not weapons but human life and dignity.⁵ To that extent human security has in its embrace issues such as “environmental degradation, human rights, equity, human potential, health, children, labour standards, narcotic trafficking, organized crime, small arms proliferation, religion, ethnicity, gender, identity, governance, civil society, and internal conflict.”⁶ Concrete expressions of human security are found in international community milestones such as the Ottawa Treaty (which prohibits Antipersonnel Mines), the

¹ W.W. Bain, ‘National Security, Human Security, and the Practice of Statecraft in International Society’ paper presented at the Conference on Global Governance and Failed States, Purdue University, Florence, Italy, April 6-10, 2000, p.2.

² Article 51 of the United Nations Charter.

³ Bain, note 1

⁴ United Nations Development Programme, *Human Development Report* (New York: Oxford University Press, 1994), p. 22.

⁵ In contrast, the main concern of national security is weapons (nuclear deterrence, military balances, zero-sum games, competing power blocs, and inter-state diplomacy and war).

⁶ Bain, note 1

International Criminal Court (that subjects international criminals to some sort of punishment for crimes prohibited by international law), Child Rights Laws (that seeks to protect children so as to guarantee regeneration of the human society), global fight against AIDS (to stem the tide of degenerative human health and curtail discrimination and guarantee respect for human dignity), and changing ideas about the use of armed forces in humanitarian emergencies.

Human security may well have originated from the United Nations Millennium Development Goals.⁷ Albeit, it has ever since found further expression in the activities of states such as Canada, Japan and Switzerland who have incorporated the concept of human security into their foreign policies, and through which the concept of human security has percolated into the language of the European Union,⁸ foreign policies, states, international and regional organizations as well as academic discusses. By the emergence of the concept of human security, the meaning of security in international law now extends beyond the security of the state (national security) to cover that of individual constituents of a state. This has become the basis for action to prevent injustice and to respond when all other efforts aimed at preventing injustice fails. It also founds justification for the international community's action to prevent armed conflicts, protect internally displaced people, alleviate hunger, support victims of environmental disasters or protect whole races of people threatened with genocide, and generally respond to humanitarian emergencies which otherwise would have remained totally within the jurisdiction of the affected state.⁹

In spite of being been termed ambitious¹⁰ because it encompasses too wide a range of threats to individual humans,¹¹ the coverage of the concept of human security now extends to cover human life and dignity by protecting fundamental freedoms that are the essence of life, and by creating socio-political, environmental, economic, military and cultural systems that cumulatively provide for people avenues for their survival, livelihood and dignity.¹² Furthermore, human security extends human life and dignity by seeking to safeguard humans from the notorious threats to human security broadly defined as "people's freedom from fear and freedom from want."¹³ In specific terms, the seven threats to human security, as identified in the Human Development Index, include economic, hunger, disease, environmental, personal, community and political - matters that directly impinge on people's

⁷J. Kotsopoulos, 'A Human Security Agenda for the EU?' (2006) European Policy Center, Issue Paper No.48.

⁸ Ibid

⁹ Ibid, p 6

¹⁰ Ibid

¹¹ By encompassing conflict prevention, crisis management, responsibility to protect, human development, genocide, slavery, natural disasters, food, health, housing, political stability, justice and sustainability, and massive violations of the rights. See M. Kaldor, M. Martin & S. Selchow, 'Human Security: A European Strategic Narrative' (2008) *International Policy Analysis*, Feb, p.2.

¹² Human Security Unit, Human Security Unit: Overview and Objectives, New York: OCHA quoted in Kotsopoulos, note 7, p.10.

¹³ O.A. Gómez & D. Gasper, '**Human Security**, A Thematic Guidance Note for Regional and National Human Development Report Teams.' United Nations Development Programme, Human Development Report Office 2013, p.1.

security.¹⁴ Others include human development which essential deals with enlarging people's choices and freedoms¹⁵ in confidence that the opportunities they have are protected.¹⁶

As it relates to communities, human security's specter covers and addresses the security needs (freedom from fear and freedom from want¹⁷) of communities of people through concepts like conflict prevention, crisis management, and responsibility to protect. Human security's specter further extends to cover matters like genocide, slavery, natural disasters, food, health, housing, political stability, justice and sustainability, massive violations of the rights, the security of individuals and communities including dealing with crime, human rights violations,¹⁸ displacement and joblessness which are the hallmark of a secure state.

STATES AND HUMAN SECURITY

Many developing sovereign states are having issues operationalizing human security within their territories. Their excuse has been that the scope of human security is too wide to be easily accomplished with dwindling national resources and lean budgets based on the perception that a larger section of the world's population lives in continual state of insecurity.¹⁹ Besides historical developmental issues associated with the concept of human security,²⁰ and the decline in traditional state-vs-state security threats in the aftermath of the Cold War, many states contend that the transnational nature of some recent security threats (environmental degradation, organized crime, international terrorism) have economic implications that they find impossible to provide for. However, it has been observed that it is not exactly about absence of capacity in many developing states to contain them but sheer reluctance to address the critical mass of human security issues in their state particularly where the internal and external security issues have become practically inseparable²¹ and have the potential of attracting adverse and dangerous consequences whenever either is threatened;²² more so because of the possibility of such human security situations attracting foreign economic intervention.

Aggravating the forgoing precarious situation is the recent understanding that the international community would ordinarily not sit to observe the escalation of security threats that have human security implications. By the fact of the understanding that "individual security does not necessarily follow from the security of the political community,"²³ the

¹⁴ Ibid. Note that the UN Charter identified human security in liberal terms as 'fundamental freedoms' See also Article 1 (3) of the UN Charter.

¹⁵ "New Dimensions of Human Security" Human Development Report (New York, UNDP, 1994). Available at <http://hdr.undp.org/en/reports/global/hdr1994/> p.23.

¹⁶ Gómez & Gasper, note 13 p. 2; UN General Assembly, 66th Session 'Follow-up to paragraph 143 on human security of the 2005 World Summit Outcome' (A/RES/66/290). 25 October 2012

¹⁷ Kaldor, Martin & Selchow, note 11, p.1.

¹⁸ They referred to the 'Final Report of the Commission on Human Security,' 1st May 2003. Available at <http://www.humansecurity-chs.org/finalreport/index.html>

¹⁹ Kotsopoulos. Note 7, p.6.

²⁰ This refers to evolution of human security from the concept of 'comprehensive security' or 'societal security', which liberally implied extending the concept of security beyond the confines of the state.

²¹ M. Kaldor & M. Glasius (eds.) *A Human Security Doctrine for Europe* (London: Routledge, 2006), p.4

²² Kotsopoulos, note 7, p.8.

²³ Ibid

international community has often taken decisive actions in matters of massive human sufferings and abuses by weighing peoples' rights to security above a state's right to autonomy.²⁴ Consequently, many developing states are abdicating their responsibilities to their citizens on this pedestal, believing that help would come from above.

In addition to traditional external military responses, recent international attempts at addressing human security has placed higher premium on issues relating to human rights, economics, the environment, drug traffic, epidemics, crime, or social injustice²⁵ as well as small arms and light weapons proliferation. Consequent upon the multidimensionality of security and paucity of resources, specifications are being proposed as to what "values to protect, from which threats, by what means, and at what cost."²⁶ However, these proposal stem from perceived difference between the pre and post cold war specifications of security that are but reflections of the many varieties of security. But indeed there are no real difference between human security and national security as both have similar impact(s) on the human person (citizen). What has changed is that advanced economies are meeting their human security needs by sweeping reforms. An example is the 2007 US Project on National Security Reform that laid the foundation for the reorganization of the US government's national security system to meet twenty-first century threats such as cyber terrorism, international terrorism, weapons proliferation, failing states, climate change, and some old threats with modern twists such as piracy.²⁷ In the main, the reforms²⁸ set out to integrate US diplomacy, military force, intelligence, law enforcement, foreign aid, homeland security, education, transportation, and health and human services into a single system that could respond to new threats associated with the end of the Cold War era such as globalization, telecommunications revolution, and September 11 attacks.²⁹

Recent postulations extend human security to nations, to individuals, to international system, to physical environment, to biosphere, to military, to politics, to economics, to social life, to international institutions, to regional or local governments, to nongovernmental organizations, to public opinion and the press, to the markets, to political responsibility for

²⁴ Report of the Commission on Global Governance, *Our Global Neighbourhood*, (Oxford: Oxford University Press, 1995), p71

²⁵ D.A. Baldwin, 'The Concept of Security' (1997), *Review of International Studies*, Vol. 23, pp. 5-26

²⁶ Ibid

²⁷ G. Lederman, 'National Security Reform for the Twenty-first Century: A New National Security Act and Reflections on Legislation's Role in Organizational Change' (2009) *Journal of National Security Law & Policy*, Vol. 3, p.363.

²⁸ The United States' National Security Strategy (NSS) of May 2010 is the policy foundation for the expansion of US national interests beyond industrial growth and military containment of geopolitical threats for the purpose of accommodating emergent human security issues such as the economy, education, immigration, infrastructure, science and innovation, alternative forms of energy, health care, climate change, refugees flooding into US, drug trafficking and criminal syndicates, damage to information infrastructure through cyber-attacks etc. see L.K. Donohue, 'The Limits of National Security, (2011) *American Criminal Law Review* Vol. 48, p.1573, *Georgetown Public Law and Legal Theory Research Paper No. 12-118*

²⁹ Ibid

ensuring security; and even to the abstract forces of nature.³⁰ Also included are states responsibility to make for the meeting of basic human needs, political and social freedoms, reducing incidences of organized political violence and other forms of violence, threats of natural disasters, disease, environmental degradation, hunger, unemployment and economic downturn. The philosophy behind this development is that the sovereignty of a state is guaranteed only if it derives from the sovereignty of her citizens.³¹ After all, the strength and central idea behind human security as a concept “is the primacy of human life as the objective of security policy”³² as against the primacy of the state in spite of her citizens.³³

It is considered that many developing states’ seeming apathy for human security stems from the penchant and ability of human security to conscript into matters concerning citizens’ rights the universal sense of immediacy and urgency associated with the word ‘security.’³⁴ States have reasoned that operationalising human security within their domestic jurisdictions would unduly increase states responsibilities to her citizens. In the face of underdevelopment (characteristic of many developing states) this presupposes that governments would no longer have the “right” to misappropriate national resources and perhaps decisively deal ruthlessly with citizens;³⁵ and in times of humanitarian emergencies, be required to provide citizens comprehensive economic assistance, relief, rehabilitation, and general welfare. This is particularly the challenge in a milieu where governments see human security as seeking to induce legal commitments that will fill a normative gap in the global system for protecting human welfare by protecting people from acute threats even if they do not emanate from persons or institutions owing legal duties to them.³⁶

States are therefore afraid of conceding certain rights to their citizens, under the doctrine of human security, because it would imply a corresponding duty on the part of governments to provide and guarantee the realization and enjoyment of such rights including assisting citizens in need, and if that duty is held to fall only on the government whose nationals are in need, it would increase the size and scope of government responsibility to citizens. Furthermore, the fear is that the specter of human security would compel the governments of other states to question an abdication of such state responsibility to citizens. This unfortunately may entail the evaluation and possible condemnation of such a state’s

³⁰ Rothschild, E. ‘What Is Security?’ (1995) *Daedalus*, Vol. 124, No. 3, the Quest for World Order (Summer), p. 55

³¹ The sovereignty of citizens of a state has been described as “the one genuine sovereignty.” See VA Havel, *Summer Meditations* (New York: Alfred A. Knopf, 1992) p.33; John Stuart Mill, *On Liberty* (London: Penguin, 1974), p.141

³² *Ibid*

³³ T. Farer, ‘Human Security: Defining the Elephant and Imagining its Tasks’ (2010) *Asian Journal of International Law*, Vol.1 No.1 pp.1-14

³⁴ *Ibid*

³⁵ Suppression of opposition, summary execution, torture, displacement, punishment without due process, detention without trial, disobedience to court order, and other cruel and inhuman treatment

³⁶ Farer, note 33, pp..5 - 6

domestic policies, its actions and omissions - an exercise that would amount to an infringement of the rigid Westphalia conception of sovereignty.³⁷

Besides the foregoing, it is further feared that the concept of human security would impose obligations on the generality of humanity to “treat the needs of non-nationals as having normative value equal to the needs of one’s own nationals.”³⁸ More so:

[o]nce a commitment to human security becomes the litmus test of governmental legitimacy, state elites can no longer speak openly as Charles DeGaulle was said to have done in conveying the belief that he owed his allegiance to France rather than the French people of whom he thought not very much. In other word the state as icon is replaced by the state as human utility maximizer.³⁹

CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA

The Constitution of the Federal Republic of Nigeria is the supreme law from which other laws in Nigeria derive their viability. It is so supreme that all laws that are inconsistent with the provisions of the constitution are void to the extent of their inconsistency.⁴⁰

This constitution has within it provisions that are prima facie foundations for the actualization of human security in Nigeria. Such provisions include those relating to non discrimination on the grounds of place of origin, sex, religion, status, ethnic or linguistic association or ties;⁴¹ the duty of the state to promote national integration by the provision of adequate facilities for and encourage free mobility of people, goods and services throughout the Federation, securing full residence rights for every citizen in all parts of the Federation, inter-marriage among persons from different places of origin, religious, ethnic or linguistic association.⁴² Others include provisions as to the use of the nation’s resources to promote national prosperity and self-reliant economy as well as securing the maximum welfare, freedom and happiness of every citizen on the basis of social justice and equality of status and opportunity; citizens participation in certain areas of the economy; promotion of a planned and balanced economic development; use of material resources of the nation to serve common good; operating the economy in such a manner as not to permit the concentration of wealth or the means of production and exchange in the hands of few individuals or of a group; provision of suitable and adequate shelter, suitable and adequate food, reasonable national minimum living wage, old age care and pensions, and unemployment, sick benefits and welfare of the disabled for all citizens;⁴³ equality of citizens rights, obligations and

³⁷ Ibid, p.6

³⁸ Ibid, p.7. On the invocation of human security as an assault on the very core of the classical national sovereignty/national interest conception of international law and an assault on the national state see A. Acharya, & A. Acharya, ‘Human Security in Asia: Conceptual Ambiguities and Common Understandings’. Available at http://www.yorku.ca/drache/talks/pdf/acharya_delhi.pdf

³⁹ Ibid

⁴⁰ S1(3) The Constitution of the Federal Republic of Nigeria 1999

⁴¹ S15(2)

⁴² S15(3) (a-c)

⁴³ S16

opportunities before the law; recognition of the sanctity of the human person and human dignity; integrity of courts of law and easy access to justice; security for adequate means of livelihood; adequate medical and health facilities;⁴⁴ educational opportunities;⁴⁵ protection and improvement of the environment including water, air and land, forest and wild life of Nigeria;⁴⁶ protection, preservation and promotion of Nigerian cultures;⁴⁷ and free press.⁴⁸

These isolated provisions essentially relate to issues of human security. Their presence in the supreme law of the state presupposes the intendment of the constitution to ensure human security at its best. However, like the many states that are not comfortable with “overbearing” nature of the concept of human security, these laudable provisions are captured in the part of the constitution that is merely philosophical and of no legal consequences. This evidence of compliance signifies an intention to make for, and an obvious unwillingness to provide. The implication is that whereas the Nigerian state has shown interest in spelling out the state’s obligation to its citizens it has inadvertently withheld the political will to provide as well as denied citizens the right to demand them.

The extent of the negative impact of this seemingly innocuous act of the National Assembly is evident in the many cases⁴⁹ instituted to challenge the political misadventure of the Federal Government of Nigeria in the mismanagement of state oil resources as well as the sad activities of the oil multinationals in the Niger-Delta. Many of the cases end with phony but expected legal interpretations that border on pulling down some significant barriers to access to justice in Nigeria such as delays in dispensing justice,⁵⁰ locus standi,⁵¹ jurisdiction,⁵² imposition of higher standards of proof in civil suits almost to the point of

⁴⁴S 17

⁴⁵S 18

⁴⁶S 20

⁴⁷S 21

⁴⁸S 22

⁴⁹ These issues were discussed in some details in C.V. Odoeme, ‘From Rio to Johannesburg: Reflections on the Role of Judges in Ensuring Access to Justice’ (2012/2013) *Commercial and Industrial Law Journal (CILJ)*, Faculty of Law, Kogi State University, Vol. 3 No.2, pp. 92 – 104

⁵⁰ See *EEA v CSN* (1999) (unreported) cited in S. Stephen (ed.) *Handbook on access to justice under the Aarhus Convention* (2003) pp. 191 – 192. In this case, a Spanish NGO was denied access to inspection reports prepared by a Government agency relating to nuclear facilities. It started proceedings for judicial review in High Court of Madrid Autonomous Region in 1995 which were decided in its favour four years later by the first court, but by July 2002 the appeal was still pending and access to the reports had still not been granted

⁵¹ See *Oronto Douglas v Shell Petroleum Development Company Ltd Unreported Suit No. FHC/CS/I/573/93 of 17/2/1997* - where the plaintiff’s suit challenging the operation of the Liquefied Natural Gas Projects without first complying strictly with the Environment Impact Assessment Act of 1992, was struck out by the Federal High Court on the ground that the claim was baseless, and the plaintiff had shown no prima facie evidence that his right was affected nor any direct injury caused to him

⁵² See *Abu v Odugbo* [2001] 7 M.J.S.C 87 at 91 where it was held that what determines jurisdiction of the court to entertain a suit is the claim of the plaintiff. See also *Adediran and Anor v. Interland Transport Ltd (1991) 9 NWLR (pt. 214) 155*, where the residents of the *Ire-Akari Housing Estate, Isolo*, (appellants) had brought an action for nuisance due to noise, vibrations, dust and obstruction of the roads in the estate. The Nigerian Supreme Court held that in the light of section 6(6)(b) of the 1999 Constitution, a private person cannot commence an action on public nuisance without the consent of the Attorney-General, or without joining him as a party.

proof beyond reasonable doubt as was the case in *Seismograph v Mark*,⁵³ and *Shell BP v Usoro*,⁵⁴ and matters of representative actions.⁵⁵

There will be no significant change is the woes of citizens or respite in the demand for the many aspects of human security unless and until the constitution is amended to reflect that true sovereignty rests with the people and not the state as an entity.

FUNDAMENTAL HUMAN RIGHTS ISSUES IN THE NIGERIAN 1999 CONSTITUTION

The chapter of the Nigerian 1999 constitution that deals with matters of human rights deemed to be fundamental is a charade when compared with the chapter of the same constitution that dealt with fundamental objectives and directive principles of state policy wherein rights that represent human security are detailed.

The rights designated in chapter four (fundamental rights) of the Nigerian 1999 constitution are highly selective. The expression of those rights in the negative forms constitutes an inordinate abuse of their potential to meet citizens' human security needs. The issue with the rights being "fundamental" is merely as regards their so being inserted in the constitution and called and interpreted as such.⁵⁶ It has nothing to do with the states intention to designate them as fundamental or their being of very significant human security value to the human person and citizen of the Federal Republic of Nigeria. Some of the rights are examined hereunder:

*Right to life*⁵⁷

The right to life of the human person is not by virtue of the existence of the constitution. After all, the constitution was made by man for himself. The man had been in existence before the constitution became needful. What the constitution did was not to create man or provide for his existence but to make it punishable for anyone to wilfully deny another the right to continue to live. This provision is even superficial because in as much as the desire or the need may arise for a person to take away the life of another, people do not always want to except in exceptional circumstances. What would be very significant for the citizen as regards human security's specification for protection of his life by the constitution is the provision of amenities and circumstances that would guarantee living a fulfilled life.

The 1999 constitution did rather concentrate on declaring that persons have right to life and no one's life shall be taken intentionally except in execution of the sentence of a

⁵³ [1993] 7 NWLR (pt.304) 203, where failure to establish a link between cause and effect cost the plaintiff his desirable remedy

⁵⁴ (1960) SCNLR 121, where the difficulty in establishing the link between seismic survey and environment damage cost the plaintiff the desired remedy

⁵⁵ In *Jonah Gbemre v Shell PDC Ltd and Ors [2005] (2005) Suit No. FHC/B/CS/53/05* Federal High Court sitting in Benin granted leave to the applicant to institute proceedings in a representative capacity for himself and for each and every member of the Iweherekan Community in Delta State of Nigeria, and to apply for an order enforcing or securing the enforcement of their fundamental human rights to life and human dignity as provided by sections 33 (1) and 34(1) of the 1999 Constitution of Nigeria, and reinforced by Articles 4, 16 and 24 of the African Charter on Human and Peoples' Right Cap. A9 Vol. 1, LFN 2004

⁵⁶ Note that the human security potent rights (described as objectives and directive principles of state policy) listed in chapter two of the constitution are called fundamental even though they are cosmetic

⁵⁷S 33

court or in other circumstances permitted by law e.g. self-defence, defence of property, effect a lawful arrest, prevent the escape of a person lawfully detention, for the purpose of suppressing a riot, insurrection or mutiny - matters that relate to the taking of the life it set out to guarantee. The constitution failed to provide for positive matters that relate to ensuring fulfilled living of the same life it set out to guarantee.

*Dignity of person*⁵⁸

The right to dignity of person as provided by the constitution is more about how not to infringe on a person's right to dignity. It is not about the how to ensure that citizens live their lives with the measure of dignity life deserves. Ostensibly, dignity of the human person has more to it that are very distant from the provisions of the constitution that affirms it as a right. Whereas it is commendable that the constitution proscribed for the purpose of respect for the dignity of the human person acts of torture, inhuman or degrading treatment, forced or compulsory labour, it made no provision for preventing hunger, providing food, treating disease and healthy environments that are better foundations for the actualization of human dignity within the auspices of human security.

*Right to Personal liberty;*⁵⁹ *Fair hearing;*⁶⁰ *right to Privacy;*⁶¹ *Freedom of Thought, Conscience and Religion;*⁶² *Freedom of Expression;*⁶³ *Freedom of Assembly and Association;*⁶⁴ *Freedom of Movement*⁶⁵

These rights are essentially about not detaining a person without the authorization of the law; hearing his opinion and defence in a matter; letting a person have some private space and time; letting a person have his own opinion on issues, beliefs and manner of worship; letting a person expression himself; letting a person meet and associate as he deems right; letting a person move about as he desires. However, they would be far more meaningful if the state were to provide basic human needs, address threats of natural disasters, disease, environmental degradation, hunger, unemployment and economic downturn (freedom from want) as against political and social freedom (freedom from fear), and reducing incidences of threats such as organized political violence, other forms of violence.

*Freedom from Discrimination*⁶⁶

This is one right that is guaranteed in breach. Whereas it looked like the state had gotten it right by prescribing that a person should not be subjected to acts of discrimination, popular practical issues with foundations in law, such as quota system, state or origin, religion, sex, poverty (issues that attract great attention in political and job recruitment process in Nigeria) as recognized forms of discrimination renders section 42 impotent from conception.

⁵⁸S 34

⁵⁹S 35

⁶⁰S 36

⁶¹S 37

⁶²S 38

⁶³S 39

⁶⁴S 40

⁶⁵S 41

⁶⁶S 42

*The Right to own Property*⁶⁷ and *not to be Denied Ownership without Just Compensation*⁶⁸

These rights do not bring about ownership of any property but permits an interested and capable person to own one; and to have some compensation paid in case the state wants to take such away.

Whereas these rights as granted by the constitution, they are superficial negative rights and mere repetition of universal rights. The rights were not properly branded. The use of such words as “fundamental rights” gives them a larger than life nature leaving the impression that they are almost absolute. But they are not and where not so intended. Whereas the limitations, apart from the ones identified and associated directly with human security in this article, are evident within rights granted in sections 33 to 36 section 45 reduces the rest of the rights the more. Section 45 of the constitution dismisses and discharges the rights granted by sections 37 to 41 when defense, public safety, public order, public morality or public health are involved or for the purpose of protecting the rights and freedom of other persons or during periods of emergency.

THE NIGERIAN STATE AND HUMAN SECURITY

As can be seen above matters of human security are replete in the Constitution of the Federal Republic of Nigeria. But it is obvious that the Nigerian state has not been very successful as regards the expectation that she will preserve what is of value and her citizens’ way of life. This failure is responsible for the violation of citizens’ rights at the domestic level as well as in the international as Nigerian citizens have their human security not guaranteed and protected by the Nigerian state. This is responsible for interference in citizens’ rights and lives by the state and powerful individuals and corporations, violation of Nigerians territorial integrity and citizens rights by terrorists and religious extremists who bank on the Nigerian government’s perceived unwillingness or inability to protect her citizens and constituents as well as the absence of human security standards to perpetrate their nefarious acts.

States fail by their inability or loss of capacity to guarantee human security within her borders. And the failure is guaranteed when states deliberately deny her citizens the rights associated with human security which is the basis for citizens’ allegiance to the state. Ordinarily, the problem with failed and failing states and provision for human security is expressed in the existence of conflict between the rights the states are willing to guarantee her citizens and the rights the citizens expect of state as citizens of a global village. In Nigerian the case is very pathetic. In her clumsy crafty effort to provide without guaranteeing human security of her citizens, the Nigerian 1999 Constitution captured the elements of human security in details in the part of the Constitution that is deemed not justiciable.⁶⁹ Unfortunately it is within the same part of the constitution that citizens’ duties to the state were captured.⁷⁰ The unintended implication of this arrangement is that neither the state nor her citizens owe each other any duties. The citizens cannot demand of the Nigerian state

⁶⁷S 43

⁶⁸S 44

⁶⁹ Cap 2, Ss 13 - 22

⁷⁰ S 24

human security “rights” that have been spelt out in the chapter two of the constitution and the state in turn cannot demand allegiance from her citizens as both are reciprocal but here mutually excluded.

Whereas at the international level, concrete expressions of human security are found in international community milestones,⁷¹ in Nigerian and many other developing economies icons of human security (that serve for the provision of human security of her citizens) such laws, courts, child and old persons rights, health care, respect for human dignity are in a state of disarray. Whereas the Nigerian constitution had indicated an intention not to discriminate on the grounds of place of origin, sex, religion, status, ethnic or linguistic association or ties⁷² those are the prominent features of employment application forms, recruitment procedures and general documentation in Nigeria public service; securing full residence rights for every citizen in all parts of the Federation is a mirage as Nigerian citizens are engaged in political offices and even in the army on the basis state of origin; inter-marriage among persons from different places of origin, religious, ethnic or linguistic association⁷³ is in practice forbidden; as per the use of the nation’s resources to promote national prosperity and self-reliant economy as well as secure the maximum welfare, freedom and happiness of every citizen on the basis of social justice and equality of status and opportunity and its sister proposal not to operate the economy in such a manner as to permit the concentration of wealth or the means of production and exchange in the hands of few individuals or of a group the order is that the nation’s wealth is in the hands of a few reluctant givers. Similar irregularities are replete in all other human security related provisions of the Nigerian 1999 Constitution - adequate shelter, suitable and adequate food, reasonable national minimum living wage, old age care and pensions, employment, sick benefits and welfare of the disabled for all citizens,⁷⁴ equality of citizens’ rights, obligations and opportunities before the law; recognition of the sanctity of the human person and human dignity, integrity of courts of law and easy access to justice, security for adequate means of livelihood, adequate medical and health facilities,⁷⁵ educational opportunities,⁷⁶ protection and improvement of the environment including water, air and land, forest and wild life of Nigeria,⁷⁷ protection, preservation and promotion of Nigerian cultures⁷⁸ and free press.⁷⁹

The Nigerian state has also failed in her international law obligation of preventing threats to individual human citizens as regards human life and dignity. These include the

⁷¹ such as the Ottawa Treaty (which prohibits Antipersonnel Mines), the International Criminal Court (that subjects international criminals to some sort of punishment for crimes prohibited by international law), Child Rights Laws (that seeks to protect children so as to guarantee regeneration of the human society), global fight against AIDS (to stem the tide of degenerative human health and curtail discrimination and guarantee respect for human dignity), and changing ideas about the use of armed forces in humanitarian.

⁷² S15(2)

⁷³S15(3) (a-c)

⁷⁴S16

⁷⁵S 17

⁷⁶S 18

⁷⁷S 20

⁷⁸S 21

⁷⁹S 22

protection of citizens' fundamental freedoms⁸⁰ by creating political, social, environmental, economic, military and cultural systems that together give people the building blocks of survival, livelihood and dignity⁸¹ as well as safeguard citizens from fear and want⁸² and other threats to human security.⁸³

Also the Nigerian state has failed in terms of enlarging citizen's choices and freedoms⁸⁴ as well as building their confidence that the opportunities they have are protected.⁸⁵ Although the Nigerian constitution did not guarantee human security related opportunities, the rate at which Nigerian citizens lose their sources of livelihood and available opportunities is alarming.

As per security of communities from "fear" and "want" through the prevention of conflict, crisis management, responsibility to protect as well as prevention of genocide, slavery, political instability, dealing with crime⁸⁶ the Nigeria state has been found wanting. The many communal conflicts, "unknown" herdsmen killing and displacement of Nigerian citizens, militancy, kidnapping, bombing and agitation for division of the state are all expressions of loss of confidence in the Nigerian state's ability to provide for her citizens. Similar incidents include abduction and forceful giving to marriage of underage girls under the supervision of powerful individuals, emergence of war lords and many outlaws, trafficking in persons, mass killing of Nigerian citizens by terrorists and the Nigerian armed forces.⁸⁷

CONCLUSION

It has come to be understood that human security provides better approaches to responding to current threats to human life⁸⁸ including ethnic and religious conflicts, civil wars, deepening of globalization, the widening gap between rich and poor, and other threats to human rights. Therefore it is conceded that human security is the most important concept that emerged out of the "post-Cold War search for a new security paradigm"⁸⁹

⁸⁰ This is by no means related to the freedoms guaranteed in Chapter IV of the 1999 Constitution of Nigeria

⁸¹ Human Security Unit: Overview and Objectives, New York: OCHA quoted in Kotsopoulos, note 7, p.10

⁸² See Article 1 (3) of the UN Charter

⁸³ Economic, hunger, disease, environmental, personal, community and political. See Gomez, & Gasper, note 13, p.1

⁸⁴ New Dimensions of Human Security, *Human Development Report*, note 15

⁸⁵ OA Gómez, & D Gasper. *op cit*, p. 2; UN General Assembly, 66th Session "Follow-up to paragraph 143 on human security of the 2005 World Summit Outcome" (A/RES/66/290). 25 October 2012

⁸⁶ Kaldor, Martin & Selchow, note 11

⁸⁷ See 'Stars on their shoulders. Blood on their hands: War crimes committed by the Nigerian military.' *Amnesty International*, June 2015

⁸⁸ Current threats to human security do not target only the states territorial integrity and sovereignty but also its people. They include terrorism, proliferation of weapons, and failed states. They cannot be addressed by purely military means since the root causes fall well outside the realm of the military. See R. Gropas, 'What Role for Human Rights in the European Security Strategy?' in T. Debiel, & S. Werthes, "Human Security on Foreign Policy Agendas: Changes, Concepts and Cases" (eds.) INEF Report 80/2006 Institute for Development and Peace, p.57.

⁸⁹ E. Atanassova-Cornelis 'Defining and Implementing Human Security: The Case of Japan' in T. Debiel, & S Werthes (ed) "*Human Security on Foreign Policy Agendas: Changes, Concepts and Cases*" INEF Report 80/2006 Institute for Development and Peace

Provision of human security is a recurrent way of reassuring citizens of their rights and dignity in any civilized society. Indeed it might be the only way to close the security gap created by the application of conventional state-centric military approaches to security⁹⁰ in places such as Iraq, Afghanistan, Lebanon, Africa, the Middle East, the Balkans, Central Asia and the Caucasus where millions of people live in situations of deep insecurity that can only be addressed through the operationalization of the concept of human security within domestic jurisdictions.

The ambitious outlook of human security is for the good of both the state and her citizens. Guaranteeing of the human security of citizens is the difference between a successful state and a failed or failing state as it is the determining factor for citizens' allegiance from which many developed states draw their strength.

The Nigerian state needs to do more than substantial compliance with its international law obligation for which it has showcased in her constitution rights deemed to substantiate human security. Like in the developed world sweeping reforms are recommended that will synchronize the fundamental objectives of state policy with the fundamental rights provisions of the 1999 Constitution. This will essentially erase from the constitution and the practice of the state the notion of a chasm between the state and her citizens constantly expressed in the rift between the "government" and the people.

The Nigerian national security system must be adjusted to be able to meet twenty-first century threats such as terrorism, weapons proliferation, climate change and hunger by integrating diplomacy, military force, intelligence, law enforcement, internal security, education, transportation, and health and human services into a single system that can respond to basic threats to human security of her citizens.

⁹⁰The root causes of current threats to human security fall well outside the realm of the military. See Gropas, note 88