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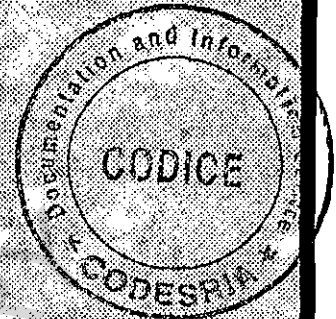
MAIDUGURI

**THE POLITIC OF HUMAN RIGHTS IN
INTERNATIONAL RELATIONS: A
CASE STUDY OF IN NIGERIA
1984-1998**

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**THE POLITICS OF HUMAN RIGHTS IN
INTERNATIONAL RELATIONS:
A CASE STUDY OF NIGERIA [1984-1998]**



By

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Being Dissertation Submitted to the School of Postgraduate Studies,
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Award of the Degree of Master of Science (M.Sc) in International
Relations.

SUPERVISOR: DR. DAUDA ABUBAKAR

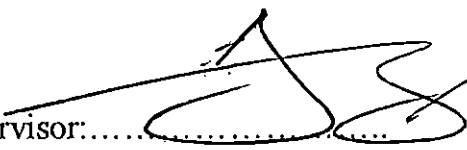
ABSTRACT

The study is based on the premise of the politics of human rights in international relations with specific emphasis on Nigeria. The study also expound the dynamics of international politics after the end of the Cold War whereupon human rights issue became a diplomatic tool of virtually every Western country for the pursuit of national interest. In the Nigerian context, human rights practice of successive military regimes from 1984-1998 has led to resurgence of new human rights demands as well as increase number of community's self-help projects and external Non-governmental Organisations (NGOs) involvement in community development programmes in the country.

It should be noted that the study was necessitated by the desire to create an understanding of the increase spate of global ethical awareness that seems to permeate all culture in the Post Cold War World and the accompanying motive behind the awareness. Furthermore, with the aid of open-ended questions and secondary data, we have been able to gather information to establish the following position as our research findings: We have found out that the motive behind Western concern with human rights in developing countries is inspired by the desire to spread free-market economic principles and liberal democracy as well as direct resources from these nations to developed countries. We also uncovered that the difficulties with human rights practice in Nigeria was the neglect of physiological needs (food, water and shelter) of citizens by government which will empower them to take their destinies into their hands and determine the kind of socio-economic and political system they should have and the nature of their relation with external forces. The study then concludes that the Nigerian government should provide its citizen's basic needs as well as educate them on their rights. Nigeria should also articulate human rights policy that is atune with its value system, which will promote its national interest in the international fora.

CERTIFICATION

We certify that this Dissertation Titled: The Politic of Human Rights in International Relations: A Case Study of Nigeria (1984-1998) has been duly presented by **Jonathan Sule Maiangwa (PGA/97/07492)** of the Department of Political Science and Administration, Faculty of Social and Management Sciences, University of Maiduguri.

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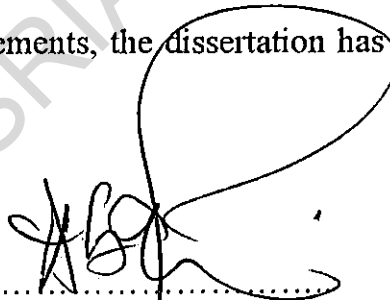
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Date: 20/10/2000

Having met the stipulated requirements, the dissertation has been accepted by the School of Postgraduate Studies.



Dean

School of Postgraduate Studies

Date: 23/10/2000

DEDICATION

To Engineer Useni Musa and
Family, Mrs. Nkem Musa,
Shepuya, Kezonya and Nashina
(children).

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CHAPTER ONE

INTRODUCTION

The advocacy on human rights appeared to be more nascent but on the contrary the concept is as old as man. Human rights are embedded in human beings by virtue of their humanities [United Nations Preamble]. This has been a long held notion which evolved from the natural law tradition that had been identified in major declarations: The Magna Carta Libertatum of 1215, the American Declaration of Right of 1776, The French Declaration of Rights of man and citizen of 1789 and the Universal Declaration of Human Rights of 1948. All the declarations contends that ... all human beings are created equal and that they are endowed by their creator with certain inalienable rights that among these are rights to life, liberty and the pursuit of happiness.

Based on this realisation the advocacy on human rights became increasingly intense after the Second World War when it was discovered that the right of the minority groups in Europe were massively abused by Nazi Germany [Mullerson 1997]. In the period that followed, the issue of human rights however was a campaign point for the victor superpowers: the United States of America and the erstwhile Soviet Union which the latter lost. In Africa, for instance, the advocacy on human rights was latent because most African countries were still under colonial domination. To them, the struggle for human rights in the continent presupposes a struggle against colonialism and imperialism (Oloka-Oyango 1997). In the light of the unfolding events in the continent - authoritarian rules - African

polity became a theatre of international human rights debate which African intellectuals [Eze; 1984, Shivji; 1989, Gye-Wado; 1992, Ake; 1993, Asobie; 1997, Oloka-Oyango; 1997, Jega; 1997 Abubakar; 1998, Nguema; 1998 etc.) were enmeshed in through the identification of problems and solutions.

The resurgence of the debate on human rights further intensified after the collapse of the Soviet Union in 1989, as a result of shift in power configuration in the international system with the United States of America [USA] assuming dominance. It now pursued its liberal ideology without any form of check. It manipulates contradictory societal values such as ethics, jurisprudence and morality which were hitherto treated with contempt in her foreign policy during President Jimmy Carter. However, these values regained prominence again in the Post-Cold War period as a result of the inter-play of politics. Attahiru Jega cogently defined politics thus:

... the authoritative allocation of societal values and resources and a skillful way to contrive and manipulate these values and resources for the promotion of national interest or selfish interest (Jega 1997).

The politics of human rights in this discourse, therefore, encapsulate the manoeuvring of human rights issue for the attainment of national interest by western nations, developing nation and international organisations. Owing to this fact, it is worthy of note that, today, human rights and its corollary democracy are parameters used by Western countries and multilateral financial institutions such as International Monetary Fund (IMF) World Bank and International

Organisations, European Union [EU], Commonwealth and the United Nations [UN] to measure the level of development and stability of countries in the South.

In Nigeria, human rights practice was at its ebb when Western aids further created an obvious scenario of deepened patrimonial tendencies and authoritarianism that increasingly siege both the civil and political society. People were alienated and denied their right to self-determination through increased draconian decrees. In fact, the common man lack the basic necessities of life [shelter, food and security]. The security of his life is not guaranteed, he is subjected to all kinds of threat ranging from the state to his fellow being owing largely to the absence of socio-economic rights; the tendency that has heightened the spade of tribal and religious loyalty in Nigeria. It is also alleged that the increased wave of religious fundamentalism and communal clashes [Zango Kataf 1993, Tiv-Jukun 1992, Ife-Modakeke 1997, Ogoni 1994, Kafanchan 1992] in the country was as a result of the absence of the basic necessities of life that the common man ought to enjoy by virtue of his humanity (Olukoshi 1995).

Consequently, in this research effort, we are interested in the assertion that international human rights advocacy is problematique hence the enforcement of it in peripheral nations by the Western nations is selective, biased, hypocritical and therefore seeks to promote Western hegemony. In addition, this research also intends to treat concrete practice of regimes' behaviour in terms of upholding or abusing of fundamental human rights of citizens of Nigeria.

1.1 STATEMENT OF RESEARCH PROBLEM

Human rights mainly concern relations between the individual and the state, they have become, especially since the Second World War an important international issue as well (Martin 1993, Mullerson 1997). The global efforts toward the promotion of it have made the concept a vital instrument of foreign policy diplomacy of virtually every Western Country and international organisations. Although double standard is often obvious as human rights issues are being sacrificed for other considerations by these international bodies. In this context, therefore what necessitates the nascent international advocacy on human rights? Is this resurgence driven by compassion to improve the human rights situations of countries or regions or can we say there are reasons of reapolitik? This study therefore, set to identify these, as human rights politics encapsulate manipulation of human rights issues in international relations for the attainment of national interests.

Furthermore, it is widely accepted (Uvin 1993, Ihonvbere 1996) that Western countries relationship with Nigeria in the 1980s and 1990s has been heavily influenced by the underutilised abundant human and material resources in the country. In this respect, international pressures for free flow of democratic ideals couple with succor for reforms (e.g, SAP) to authoritarian regimes have led to an increase in human rights violation in the country.

Within the confines of violation, Nigeria was besieged with barrages of criticisms, condemnations and sanctions by the Western World. This process creates ethical awareness and also exacerbates the quest for self-determination and equal development which undoubtedly increases the volumes of rights in the global setting.

1.2 AIMS AND OBJECTIVES

This study intends to explore the politics associated with the concept of human rights in international relations. Thus, the research has a general and specific objectives which it strives to achieve.

General Objective

To critically examine the concept of human rights in international relations.

Specific Objectives

1. To identify the motive behind Western concern with human rights and its use for the pursuit of national interest.
2. To examine the state of human rights in Nigeria from 1984-1998.
3. To critically evaluate the human rights question arising from new human-rights demands in Nigeria.

1.3 SIGNIFICANCE OF THE STUDY

Replete literature on the human rights discourse abound, although most of these materials dwell essentially on the monitoring, evaluation and reporting of human rights violation of one particular country or the other. Only of recent, few literatures are coming out with a diverse viewpoint of the global human rights agenda. Therefore, this research intends to bridge the existing gap in the human rights polemics.

The period (1984-1998) selected for this study is very important because two events helped to shape the face of international relations. One is the ascendancy of a hegemonic power (US and its Western allies) in world affairs that dictate the tune of international relations. And two, the period was the height of brutal human rights abuse in Nigeria at a time when global ethical awareness was on the increase. Also equally germane to Nigerian democratic process was the cumulative domestic and international pressures on authoritarian regimes in Nigeria.

Much more, the recommendations of this study will provide guideline, inform and advise Nigerian policy makers on how to respect the fundamental human rights of their citizens in order to avoid international criticisms, sanctions and frustrate Western manipulations of issue of human rights in the continent.

Finally, it is also hoped that the findings of this work will trigger further research in this field.

1.4 LITERATURE REVIEW

It is necessary in this review to state our basic premises because the subject under consideration is in vogue, highly polemical, contentious and intriguing. The nature and character of the contemporary human rights debate has assumed a two way dimension. Firstly, human rights have been conceived as a right and claim of every citizen on the state and the state must be prepared to guarantee and protect them and secondly, human rights is viewed as an ideology that is out to promote an interest in the global setting.

The replete literatures [Chomsky and Herman; 1979, Eze; 1985, Howard; 1986, Cobba; 1987, Shivji; 1989, Mittleman; 1995, Mullerson; 1997 etc.] on the human rights debate have all agreed that human rights have different meanings in different societies. And also, the implementation of rights and freedom varies greatly from one society to society. An appreciation of the development of human rights in different societies calls for the study of history and sociology, to explain the extent of the inculcation of human rights in the political philosophy of a people, it is also necessary to have recourse to their culture, tradition and religion [Umozurike 1997].

The doctrine of human rights has its roots in the theory of natural entitlement of the human person introduced in Western thought by the Enlightenment of the 17th and 18th centuries [Vander vyer 1994]. Thus, a forerunner to many proclaimed rights today; which the post Cold-War global

politics seeks to promote and protect through the instrumentalities of the Universal Human Rights Declaration and multilateral financial institutions like the IMF, World Bank and other organisations like the EU, Commonwealth and UN High Commission for Human Rights. It is in this respect that Martin; [1993], Shivji; [1989], and Asobie; [1997] remarked that the Post-Cold War global politics is an interesting area of contention and study. The contention however seems to capture what is intended by those who characterised the human rights polemics as a subject of claim by individuals and groups [Dowrick; 1979, Eze; 1984, Howard; 1986, Martin; 1993, Umozurike; 1997,].

Thus, Umozurike [1997], Eze [1984] opined that for us to understand what is human rights, we have to appreciate it from the wider concept of 'claim' that is, wants, desires and aspirations people have and express. A claim may thus be legal, political, economic or moral. These claims are made by individuals or groups of persons on the official managers of the state on the basis of their humanity [United Nations Preamble]. It is therefore in this context that Cranston [1973] summed up human rights to mean the right of all people at all times and in all situations. These contention therefore demonstrates that human rights are intrinsic in human being, the claim of them are germane in a situation where they are being denied. Although the Marxists went further than that, they emphasized that, it is futile to talk about granting and guaranteeing freedom to a people that lack the economic muscle to enjoy the benefits of such freedoms since the social relations in the

society are determined by the means and mode of production, it is better to guarantee the social and economic rights of the citizens, as formal, civil and political rights are meaningless to a hungry and angry person (Okoye 1997).

In a fascinating and critical study of human rights in contemporary African states, the late Nigerian Political Economist, Claude Ake notes that a serious analysis of this subject (human rights) must underscore the political, social and cultural dimensions in local African communities [Ake 1994]. In his contention, civil-political rights and socio-economic rights are closely interdependent in understanding the dimension of human rights. The denial of social and economic rights may be a serious cause of social unrest which many governments he observed respond by political repression. The underlying opinion is rooted in African conception of human rights which people like Howard (1986) and Donnelly (1991) forcibly countered. They argued at different times that what are usually put forward as African human rights conceptions by its proponents are nothing more than notions of human dignity and worth which existed in all societies. One of the strongest proponents of this line puts it thus:

There is no specifically African concepts of human rights. The argument for such concept is based on a philosophical confusion of human dignity with human rights, and on an inadequate understanding of structural organisation and social changes in African society. Underlying this inadequate understanding, a number of assumptions regarding the meaning of culture are used to buttress the reliance on the assertion of cultural relativity, in order to argue that the allegedly 'Western' concept of human rights cannot be applied to Africa (Howard 1986).

This argument has met with a forceful rebuttal from scholars like Shivji; (1989), Ake; (1994) and Umozurike; (1997), who in their modest attempts simply maintained that the thrust of African human rights conception which is based on obligation and duties can be simply appreciated with careful understanding of the various rights classification. There are two major forms of classification. The first is in terms of what is called the traditional classification between Political/Civil rights and Social and Economic rights [Shivji 1989]. The second classification is in terms of three 'generation' of rights. Welch relates the three generations of rights to the role of the state therein thus:

The first generation stressed civil and political rights notably liberty against government intrusions on individuals. The second generation emphasized economic, social and cultural rights, by which equality rather than liberty was the watchword, and for which governments were to pursue collective achievement of betterment. Third generation rights, by contrast, involve solidarity, both among developing states as a group, and among all states in general [Welch 1981].

Eze [1984] in his analysis of rights, grouped these rights under five headings: civil, political, social, economic and cultural. The civil and political rights include the rights to life, the right to liberty and security, right to freedom of thought, conscience, religion and expression, the right to self-determination, the right to vote and be voted for etc. While the economic, social and cultural rights embrace, among others, the right to work, the right to just conditions of work, the right to an adequate standard of living; the right to equal pay for equal work, the right to join

and form unions, the right to take part in cultural life, the right to enjoy scientific discoveries, and the right to enjoy the benefit of one's own research and creative activity etc. Social and economic right are largely conditioned by the economic development of a country, and the relationship between economic development, human rights and democracy is a rather complicated one. Liu Huaqiu, head of the Chinese delegation to the Vienna World Conference on Human Rights of 1993, opined:

For the vast number of developing countries to respect and protect human rights is first and foremost to ensure the full realisation of right to subsistence and development. The argument that human rights is the precondition for development is unfounded. When poverty and lack of adequate food and clothing are commonplace and people's basic needs are not guaranteed, priority should be given to economic development. Otherwise human rights are completely out of question.

This means that no state, not even a poor one can completely negate social and economic rights. Such a neglect may undermine domestic stability and eventually constitute a threat to international stability [Mullerson, 1997].

In its debates, resolutions and conventions on human rights, the United Nations emphasised that equal importance should be given to all categories of rights [Article 2 of International Covenant on Economic, Social and Cultural Rights 1966]. This policy guide is based on the assumption that all rights are susceptible to contestation. This is because every citizen irrespective of the society he belongs to is part of what like-minded philosophers [Thomas Hobbes 1588-1886, John Locke 1632-1704, Jean Jacque Rousseau, 1712-1778] call the

“social contract”, where at a certain point in the evolution of human society, man determined, in pursuit of his interest, to surrender some of his rights to someone representing or epitomising the collectivity. The aim was to ensure man’s individual survival against the misconduct and excesses of other members of the society [Ibidapo-Obe 1995]. This represent an ambition to bring rationality into the political institutions and the societies of all states (Cassese 1990). Thus, individuals are more sensitive to those liberties, immunities and benefits which are accepted by contemporary values as human rights. This sensitivity further exposes them to the knowledge and desire for self-determination. In, Africa for example, Oyajobi [1993] observed that colonial experiences of economic exploitation lend credence to the notion of human dignity and the struggle for self-determination. Nationalist leaders, like Jomo Kenyatta of Kenya and Kwame Nkrumah of Ghana, were jailed for speaking up against colonial denial of the rights of self-determination [Umozurike 1997].

Implicit in the above debate is the obvious reason that human rights whether viewed from the moral or political angle the hallmark of it all is that it presupposes the inalienable right of man which need to be protected by a sovereign authority as human rights concern relations between the individual and the state.

The second theme of our review is that the human rights discourse is not just about its ostensible projections, that is, the promotion and protection of the basic rights of people across cultural, ethnic, racial, gender and regional lines. It is

about the protection and promotion of an ideology which in present day human rights politics has unwittingly come to represent Western liberal ideology.

Falk [1979] observed that human rights at the international level, is a rationalization for interference and intervention as well as domination of the Third world countries [in the interest of democracy and free world] and on the domestic level it is an important element in reproducing the hegemony of imperial-bourgeois ideology by bolstering the image of the US and its Western allies [emphasis added] as countries maintaining 'civilised human standard' internationally. Of course, since the emergence of the very first international human rights instruments on the protection of certain minorities, human rights issues, as we saw, have been used as an instrument of state policy with quite a large portion of hypocrisy. Thus, in the Cold War era, human rights were often abused as part of the ideological and political struggle between the East and the West. However, in the development of international law, there is a phenomenon which could be called the 'hypocrisy trap' (Mullerson 1997). Shivji (1989) calls it an ideology of domination and part of imperialist world outlook. He cogently put it thus:

... the dominant human rights ideology claims and proclaims universality, immortality and immutability while promulgating in practice class-parochialism, national oppression and 'patronising' authoritarianism [Shivji 1989].

The above position sees human rights as a Western model, however Asante (cited in Shivji 1989) rejects that notion that human rights concepts are peculiarly or even essentially bourgeois or Western and without relevance to Africans. He

warned that such a notion confuses the articulation of the theoretical foundations of Western concepts of human rights with the ultimate objective of any philosophy of human rights.

Falk (1979) responded that, the reason why human rights in the present dispensation is being reduced to Western concept is in line with the misuse of it in the international fora. Human rights has given the West an edge in effect to use international economic institutions, the IMF and the World Bank, military power and economic resources to run the world in the way that will maintain western predominance, protect Western interest and promote Western political and economic values [Huntington 1993]. In international relations human rights is a potent instrument of diplomacy to which has been added democracy. Both have become the yardstick for the grant of aid by the developed countries to the developing ones.

The means used by Western democracies to influence human rights situations in other countries varied from quite diplomacy to exposing violations in international fora; voting for the creation of investigative bodies and appointing special rapporteurs; and cutting off military supplies or even developmental aid. These means have depended on specific contexts, including existing ties with target state [Mullerson; 1997]. The United States human rights diplomacy tools under the Bush administration, when the Cold War distorting lens was being lifted, included praise and criticism, economic and political assistance programmes, and

the granting or withholding of MFN (Most Favoured Nation) status and other trade benefit.

One time British Foreign Minister, Douglas Hurd gave a speech in which he maintained that economic development and so-called 'good governance' go hand in hand in developing countries. He continued:

economic success depends extensively on the existence of an efficient and honest government, on political pluralism respect for the all and free and more open economies

In the same fashion, former French President Francois Mitteran pointed out at a meeting with African heads of state that in the future France would be less liberal in granting assistance to regimes that have an authoritarian approach without accepting an evolution towards democracy and human rights [Oversea Development Institute London 1992]. This pronouncement as noted by Shivji [1989] is like, the language of rights in human rights is related to a commodity producing society which necessarily dissolves the bondage of natural economy societies based on tradition and community. Indeed, the new unipolar world is fraught with dangers of a return to the old dominance of the powerful over the weak hence the emphasis on Western pattern of development.

Be that as it may, human rights which is also used as a criteria for economic assistance suffered some criticisms, Robinson (1995) maintained that economic assistance to "improverished countries" by donor agencies and foreign governments is meant to integrate the economies of the recipient countries into the

orbit of the world capitalist markets. Barya (1993) also assert that the project of the new political conditionalities is non other than an attempt by the big Western capitalist powers to create a new legitimacy in new Post-Cold War world order whereby discredited dictatorial/authoritarian regimes in Africa or elsewhere in the Third World are replaced by new leaders under the ideology of pluralism, democracy and free enterprise while maintaining hegemony over countries which are economically and politically useful to those Western powers.

One time Foreign Minister of Singapore, Wong Kan Seng in his statement at the World Conference on Human Rights in Vienna [1993] warns that 'Universal recognition of the ideal of human rights can be harmful if universalism is used to deny or mask the reality of diversity. He continued, the reason why nations would not accept the universal application of human rights is because of their cultural background and the levels of their societal development.

The paradox in human rights is that their most effective protectors - governments are also sometimes their worst violators. The challenge of the time is not only to lay down standards for states but also to ensure thorough implementation machinery that states carryout their human rights obligations. The championing of human rights by the US and its Western allies has thus gone hand in hand with their violation. It follows that the human rights ideology has played the role of legitimising or at least disguising a contrary practice of imperialist powers [Welch 1981]. Chomsky and Herman in their writings contended that the

US has consistently supported undemocratic dictatorships in the Third World. Their bonds of contention lies in the fact that there is almost a direct link between violations of human rights and US support in terms of economic investments and military aid, they succinctly put their argument in this form:

For most of the sample countries, US controlled aid has been positively related to investment climate and inversely related to the maintenance of a democratic order and human rights [Chomsky and Herman 1979].

They [Chomsky and Herman] further remarked that US support for regimes known for systematic human rights violations is itself systematic and consistently tied to imperialist economic and strategic interests. US aid to terror-prone state is positively related to terror and improvement of investment climate and negatively related to human rights.

They continued thus:

the leadership in the U.S.A. as a result of its dominant position and wide-ranging counter-revolutionary effort, it has been the most important single instigator, administrator and moral material sustainer of serious blood baths in the years that followed World War II (Chomsky and Herman 1979)

Consequently, the US human rights enforcement policy lacked consistency and its double standard nature is often obvious. In fact, the human rights policies of the West is problematic, hypocritical, political and sometimes difficult to grasp. Thus, Ayatollah Khomeini pour out his contempt that what they call human rights is nothing but a collection of corrupt rules worked out by Zionists [including the US and its Western allies] to destroy true religion. This contention is in agreement

with the Marxist school of thought who visualized human rights from the lenses of dialectical materialism. According to this school of persuasion, the scope and substance of human rights are determined by the character of the ruling class that is, if the capitalists are in control of state power, they will use it primarily to protect their interest. Fundamentally, private ownership of means of production, determines what is to be produced, how, in what quantity and when and how it is to be distributed [Eze 1985]. The above description rightly fit into the operation of authoritarian regimes in Nigeria where military leaders used the human rights ideology to overthrow one another, garner support for their administration and repress the civil society [Ake; 1994, Ihonvbere; 1996, Abubakar; 1998].

1.5 THEORETICAL FRAMEWORK

Since the first decades of the 20th century the world has been undergoing a technological innovations and global restructuring. Some of these changes involved a new stage of technocapitalism which involved a fundamental restructuring and reorganisation of the world economy, polity and culture for which the term globalisation serves as a codeword (Kellner 1998).

The term globalisation is rooted in classical liberal economic theory of Adams Smith, David Ricardo and the critical works of Marx and Engels. In his book "The Wealth of Nations" (1776) Adam Smith envisaged the emergence of a world market system as one of the most important features of modernity that would eventually benefit the entire world. The main assumption of classical

liberal school is that increased economic growth can be successful if international division of labour and specialisation based on comparative advantage is encouraged. The classical liberal economic theory is anchored on the expansion of capitalist relations and modes of production which may bring the entire world together as a result of new discoveries and inventions through increased production.

In "The Communist manifesto" Marx and Engels followed Smith in seeing the importance of the globalisation of the capitalist market, although, of course they differ in their evaluation of it. Closely following the optic of Smith, they claimed:

Modern industry has established the market, for which the discovery of America paved the way... (the) need of constantly expanding market for its products chases the bourgeoisie over the whole surface of the globe. It must nestle everywhere settle everywhere, establish connections everywhere... The bourgeoisie, by the rapid improvement of all instruments of production, by the immensely facilitated means of communication, draws all even the most barbarian nations into civilization... in a word, it creates a world after its own image [Marx and Engels 1976: 486 cited in Kellner 1998].

Both the classical liberalism of Smith and classical Marxism see capitalism as a global economic system characterised by a world market and the imposition of similar relations of production, commodities, and culture on areas throughout the world, creating a new modern world system as the capitalist market penetrates the four corners of the earth (Kellner, 1998).

With the expansion of capitalist modes of production and relations, a new trend found its way into the global setting during the first decades of the 20th century. This came to be referred to as globalisation. The assumption of the globalisation paradigm rooted in classical liberal economic thought is a process of change through which countries and their economies will be increasingly integrated as a function of rising cross border economic activity (Kanter and Pittinsky 1996). Cross-border exchange includes materials, transfer of people, norms and values etc and nearly instantaneous communication enabled by emerging information technology through the expansion of capitalist world market (Mittleman 1995, Kanter and Pittinsky 1996, Tandon 1998).

Another assumption of globalisation as pointed out by Mittleman (1995) relates to compression of time and space aspects in social relations, a phenomenon that allows the economy, politics and culture of one country to penetrate another. This is demonstrated in the rise of a new global culture which is emerging as a result of computer and communication technology. Global culture includes the proliferation of media technologies that veritably create Marshal McLuhans dream of a "global village", which people all over the world watch political drama (war), major sport event, entertainment programmes, and advertisement that relentlessly promote capitalist modernisation (Kellner, 1998).

Why the theory of globalisation is relevant to this study is because this is the first time in human history the world is close to creating a single unified global

system (United Nations Development Programme. Human Development Report 1992). In the last two decades or so, nations and communities all over the world have been nearly drawn together, into a single web spanning a whole variety of relationship, culture and values of nations penetrate other nations freely without interference; concepts like “human rights”, “rule of law” “good governance” and “Democracy” have been preached all over the globe facilitated by information technology and capitalist market expansion.

We plan to relate the theory of globalisation to the study by carefully assessing the economic and socio-political impact of globalisation on human rights.

The end of the Cold war, the increasing integration of the global economy and the triumph of the market has brought into forefront the dominant role of financial institutions and a single ideology-capitalism (cited in Ihonvbere and Vaughan 1995). This new form of exclusion and marginalisation that characterise a whole chain of relationships from the international to the regional, national to the grassroot levels have given inputs to the emergence of new human rights demands the rights to equal development (M’Baye, 1982). In addition to the above, the affluent standard of living (through corrupt means) of most Third world leaders at the expense of the majority further explain why there is a new demand for human rights.

Domestically, reform programme (for example, structural Adjustment

Programme) that seek to create a set of economic and social relationships in accordance with international norms of productivity, capital returns and competitiveness are directly or indirectly attacking long-held rights, where they exist. SAP destroys the basis of societal norms and values by attempting to inject new ideas that are alien to community held rights (Campbell; 1998).

The various forms that globalisation is taking and their destability effects on social relationships may explain the growing concern with human rights. The expansion of Western Cultural values such as liberal democracy into the moral fabric of Third World countries suggested a shift from community rights which most African countries are familiar with to that of individual rights or individualism.

The political impact of globalisation and communication revolution have led to what Robert [1992] term, “the empowerment of the ordinary people as consumers and distributors of information, which has encouraged citizens to take control of their national and individual destinies through increased political awareness that has taken root on global scale”. All over the world people have become conscious of their rights as a result of information circulation and movement of people across borders. Information technology have immensely reduced the complex scope of the world to the extent that distance and time are no longer hindrance to information flow. Globalisation has increased debate and media coverage of human rights in many areas thereby creating awareness in

specific areas of human rights violation.

1.6 METHODOLOGY

This research relied on two sources: viz secondary data and open-ended interviews with scholars, victims of human rights abuse and officials of human rights organisations such as Civil Liberty Organisation [CLO], Constitutional Right Project (CRP), United Nations High Commissioner for Human Rights [UNHCHR], Campaign for Democracy [CD] etc; to get an insight into their conception of human rights and its practice in Nigeria. This has assisted us concretise some argument raised in this discourse. Also, the secondary materials for the study included Magazines, Journals, Conference Proceedings, Periodicals, Textbooks, Newspapers and Governmental publications. These materials were sourced from University and National Libraries, Centre for Research and Documentation (CRD) Kano, Nigerian Institute of International Affairs [NIIA] Lagos, National Policy and Strategic Studies [NIPSS] Kuru, and National Commission for Human Rights, Abuja.

Finally, based on the nature of data collection of the study; the research employed the techniques of normative content analysis to sieve out useful materials and analysed them under various sub-topic for coherent presentation.

1.7 RESEARCH QUESTIONS

On the basis of the issues already raised, reviewed and analysed. This research, therefore, attempt the following questions:

1. What is the politics involved in the human rights agenda?
2. Have there been human rights violation in Nigeria? To what extent have that increased ethical and political awareness?

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1.8 OPERATIONAL DEFINITION OF TERMS

- i. **Human Rights:** These are inherent rights that individuals possessed by virtue of his/her humanity. These include among others right to life, liberty happiness, possession etc. In another sense, human rights are claims made by individual(s) on their government(s) and the government is expected to guarantee such claims. These rights include among others rights to freedom of expression, right to hold assembly, right to free movement, right to life etc.
- ii. **Individual Rights:** These are rights commonly espoused by Western Countries, which placed emphasis on civil/political rights which is the thrust of capitalism.
- iii. **Community Rights:** These rights placed premium on cultural economic and social rights with emphasis on obligations and duties. These rights are espoused by African Charter on Human and Peoples' Rights. Community Right in this context, means social provisioning and development.
- iv. **Politics of Human Rights:** This encapsulate the manipulation of human rights issue for national interest by Western governments, authoritarian regimes and international organisations.

- v. **Right to Self-determination:** Means Right to have access to basic necessities of life and determine who will govern you through genuine electoral processes.
- vi. **Civil Society:** Is an autonomous voluntary group/association of rational persons created by the interaction of their interests. They can be in form of networks, advocates or reactionary groups which interact with state yet maintain their independence.
- vii. **Democracy:** System of government that encourages liberal ideals like rule of law, human rights and accountability.
- viii. **Political Pluralism:** A system or a set up that encourages the existence of multiple political parties and associations.
- ix. **Economic Liberalism:** Free market principle that encourage free enterprise and less government interference.
- x. **Globalisation:** Monumental economic integration that allows the economy, polity and culture of other nations to penetrate others freely.

CHAPTER TWO

2.0 THE CONCEPT OF HUMAN RIGHTS IN INTERNATIONAL RELATIONS

INTRODUCTION: The emergence of what is now known as human rights in the world dates back to antiquity; times when prophets and judges were mediators between man and man, and man and God. The preceding period witnessed the emergence of philosophers and theologians of diverse reputations whose conceptions of rights were inherently based on justice and equity. The increasing horrors of war created as a result of human rights abuses critically reassessed the meaning of justice to include “all rights” that men are naturally endowed with; these include among others the right to life, the right to happiness, the right to movement (Henkin 1978). These rights received further backing by the United Nations in 1947 and its subsequent instruments - the Universal Declaration (1948) and the 1966 Covenants. In addition to the philosophical antecedents, this chapter sets to evaluate the concept of human rights in Africa, Nigeria’s involvement in international human rights organisations and also to examine human rights provisions in Nigeria’s constitutions. The objective of this is to develop a conceptual framework for explaining empirical cases that will ensue in our subsequent chapters.

2.1 PHILOSOPHICAL/HISTORICAL EVOLUTION OF HUMAN RIGHTS

The discourse on the philosophical/historical; evolution of human rights is tied down to two contending schools; natural law theory and that which subscribes to positivism. Natural law, traced from ancient Greece through the medieval period and Enlightenment to the post-World war II revival has been considered to be the parent of natural rights [K.R Minogue cited in Shivji 1989]. Natural rights therefore traces their origin and claim legitimacy from a certain moral/ethical (including religious during the medieval period) world view [Shivji 1989], while positivism is seen as a recent development that emerged out of the natural law paradigm.

One of the pioneers of the natural law school, Socrates, (c470-399) posits that human being generally are rational beings who have insight into what is good and bad and as a result of this, they respect the higher authority which is supreme. This principle of supreme law was later developed by one of the apostles of Socrates, Plato who in his book "The Republic" advocated for an ideal state, with a philosopher king as the ruler, the philosopher king could be entrusted not to abuse his power. This view holds that the rule by a philosopher king is better than a state governed by law which was a second best. According to him, men were not equal and were assigned roles in the society which they were competent to play. Subjection to the philosopher was not a matter for regret by subject peoples since

it was subjection to nature which was apparently better than subjection to wisdom (Eze 1985).

Aristotle (384-322 Bc) also of the natural law school of thought emphasizes the need for authority and restraint of freedom. In his view, the family is nature's gift to man and it is its responsibility especially that of the head to supply on a daily basis the needs and wants of the family. He remarks further that man's desires for a community or state is for the purpose of satisfying the wider needs. In this regard, Aristotle concludes that the state was a creation of man just for the sake of achieving the good things in life. It is within this same tradition (natural law) that the philosophers of the seventeenth and eighteenth centuries developed their rights theories. Among those the most quoted are of course Thomas Hobbes; (1588-1679), John Locke; (1652-1704), and J.J. Rousseau; (1712-1778) (Shivji 1989).

One of Hobbes's main claim was that each person was as subject in order to move out of the "state of nature" and into the civil relationship, was required to waive, conditionally but permanently, that person's own exercise of natural rights, that they no longer act as if they even had such rights (except under certain very restrictive conditions).

In his account of natural rights, Hobbes appeared to argue roughly as follows: A natural right is a liberty; such a right specifies a way of acting that is rational for everyone in the state of nature. Hobbes's account here is specifically

intended to endorse as rational, hence as a natural right, each person's following a policy of first-strike violence (Martin 1993).

In his "Two Treatises on Government", Locke is of the view that the odious and precarious life that man found himself in the state of nature informed man's idea of an ideal society which will be overseen by a supreme authority; Locke calls it the "sovereign". He viewed the sovereign as a limited government with a limited authority whose preoccupation Locke says will be the protection of the inalienable rights of citizens.

Rousseau in his contribution to the debate on the philosophy of rights remarked that man's insecurity and fear ushered him into a new polity where some parts of man's natural rights were surrendered to all; a form of civilized arrangement representing the interest of all; thus, Rousseau called those principle the "General Will". In this set up, Rousseau says man would be more comfortable hence his natural rights are ensured by his representative.

Modern conceptions of human rights in the West in fact draw their inspiration directly or indirectly from the writings of these philosophers. All the Western/European great declarations of rights from the English petition of Rights (1627) through the American Declaration of Independence (1776) to the French Declaration of Rights of man and citizen (1789) and to the UN Universal Declaration of rights of 1948 are said to be within this natural law tradition (Shivji 1989).

The Enlightenment period which is also known as the era of Renaissance occurred around the second half of the 19th century and lasted till first half of 20th century. This witnessed the emergence of positivist scholars - August Comte, Marx, Engels and Hans Kelsen. This school of thoughts countered the metaphysical foundations of natural law; which to them has failed to explain the basis of law in an increasingly complex society. The socialist concept of law accepts as a starting point, man made law; that is positive law, as the only valid law thus rejecting natural law theories as idealistic, *a priori* or metaphysical. They regard law as a system of social relations or a form of production relations (Eze 1985). According to this position, natural law which is also about natural rights are sets of laws that were meant to protect the rising middle class. This conception is rooted in the economic superstructure where the state lays down rules to protect itself from the intimidation and harassment of the exploited class. The increasing effort to ensure that insurgent spirit in the "have nots" is brought down is pursued to the letter in capitalist countries in order to perpetually maintain the existing gap of inequality. On this note Eze (1985) asserts that laws are instruments of the ruling class which is being supported by the coercive force of the state with the objective of safeguarding, making secure and developing social relationships and arrangements advantageous and agreeable to the ruling class. The positivists espoused human rights but specifically lay emphasis on socio-economic right

which the natural law proponents seem to be oblivious of which is the central tenet of human rights violation.

The increasing global human rights violation especially during the two World Wars has helped the progressive promotion of human rights world wide. In 1947 the United Nations Charter (UNC) in Article 1 and 2 specifically imposes an obligation on all member states to promote the development and recognition of human rights. The drum on human rights promotion was again resounded in 1948 when the 10th UN General Assembly session adopted the United Nations Universal Declaration of Human Rights. The preamble stated in part:

... whereas recognition of the inherent dignity and of the equal and inalienable right of all members of the human family is the foundation of freedom, justice and peace in the world.

In 1966 the General Assembly passed a resolution and adopted the International Covenant on Civil and Political Rights (Political Rights covenant) and the Covenant on Economic, Social and Cultural Rights (Economic Rights Covenant). The systematic elaboration of these rights were through various international conventions (multilateral treaties) promulgated by World Congresses of International Labour Organisation (ILO) and other UN agencies. There was also a reaffirmation of allegiance to these various instruments by member nations (Article 56) at their several regional conventions on human rights.

The Universal Declaration was followed in due course by other international and regional human rights covenants and charters. There were International Convention on the Elimination of all Forms of Racial Discrimination in 1966, the International Convention on Genocide in 1948, Convention on the Political Rights of Women in 1979, and the Convention on the Status of Refugees in 1978. In Europe, there exists the European Convention of Human Rights 1950, providing in addition for a European Commission and a European Court of Human Rights; in the Americas, there is the Inter-American Commission on Human Rights (1969) as well as American Convention on Human Rights. In the Arab World there is the Permanent Arab Commission on Human Rights (Jinadu 1982). In the wake of documented and juridically proved allegations of gross human rights violations by Emperor Bokassa of the Central African Republic and Idi Amin of Uganda, the Organisation of African Unity (OAU) set up a committee to draft an OAU Human Rights Charter which came into effect in 1981 and adopted in 1986 by member nations (Nguema 1998). Following a resolution of the Second World Conference on Human Rights held in Vienna in 1993, the UN High Commissioner for Human Rights was appointed in January 1994. The philosophical/historical evolution of human rights and its appreciation both at international and regional levels is a demonstration of a fact that ethics, morality and legal precepts are famous in international relations.

2.2 THE CONCEPT OF HUMAN RIGHTS IN AFRICA

Communities have existed throughout the world since antiquity in which elements of what we now designate as human rights were recognised and safeguarded by system of laws and institutions. In Africa, for example the family, community, society and state form the organic of these laws and institutions (Shivji; 1989, Gye-Wado; 1992, Nguema; 1998) ... African societies function within a communal structure whereby a person's dignity and honour flow from his or her transcendental role as a cultural being (Shivji 1989).

The thematic approach to the concept of human rights in Africa can be appreciated; firstly at the level of precolonial stage in which Africans and their various regimented or segmented communities dealt with each other. Secondly; the effect of the devastating episode of colonialism (Rodney; 1972; Oloka-Oyango; 1997, Nguema, 1998). And lastly, the post-colonial period with all its attendant influence, both internal and external.

Human rights exist in traditional African societies; not only do these values exist but they are indelibly and irreversibly consecrated in those societies (Marasinghe 1984). It should be noted that pre-colonial Africa was neither culturally nor politically homogenous (Gye-Wado 1992), these various communities had established norms of communal responsibilities, with each member responding to the general needs of his community. Africa was therefore composed of societies with the communalistic ethos with the consequent evolution of the relevant norms and values. Regarding the organisation of the political

framework of the community these societies were acephalous (had no states), devoid of differentiated organs of control: no individual or group of individuals had the power to decide and impose his decisions on the other members of the social body (Nguema, 1998). These societies were characterised by the absence of any body to elaborate laws, the absence of any body to supervise the application of laws. At best, what one had were outrageous systems of organised disorders or “anarchies (Nguema, 1998), a stage that was followed by the political system of societies having a chieftain, in which the power belonged to a single individual, who might be either the chief of a village community, the chief of an ethnic group or a simple monarch, each of these chiefs, whatever his level might be, holding all powers in his own hands, executive, legislative and judicial.

With the emergence of feudal aristocracy, empires and kingdoms emerged in Africa. The history of Africa is therefore replete with these empires and kingdoms; which were eventually subdued by colonial aggression and conquest (Gye-Wado, 1992). Given this social milieu, it is possible to make a number of deductions in respect of the norms of human rights. Human rights at the communalistic stage was collectivized. This is to the effect that the whole community was the focus of rights and privileges coupled with duties. While spouses were entitled to the privacy and peace of married life; family relations was generally a communal affair. The community was interested in maintaining the sanctity of family life as well as ensuring its continued existence. In this regard,

the community could be the basis for settling family feuds. The individual was entitled to his life and any derogation from the right to life must be in accordance with the established norms of the society which are normally not in written form. Nguema (1998) observed that in the light of the evolution and the exchanges of ideas and experiences that have taken place in the sciences and in political life it is no longer accepted that the existence of law must be tied to the existence of writing in a society. Writing, he maintained is merely one of the possible modes of expression of the thought of a given civilization, which may, depending on the context, adopt another route, the oral mode for example, as is the case with our ancestral customs. (This was a reaction to Western conspiracy of the absence of human rights ideology in Africa). For every village has its ways of doing things, its own customs and traditions which enable it to attain, with respect to other villages, the first prize, which is nothing other than the consecration of the fullness of life (Nguema 1998). Any abuse of the right was accordingly punished. Firstly, it took the form of retribution, but with time other forms of punishment were developed. There emerged the phenomenon of ransom where the guilty party had to appease both the immediate family and the community at large. Such offender could also be banished from the community (Gye-Wado, 1992).

In pre-colonial Africa, the individual was not only entitled to a bundle of rights and privileges, but also had duties imposed on him. The individual had the inherent duty of maintaining and sustaining the corporate spirit of the community.

The individual, particularly males had a duty toward their families in particular and to assist any member of the community generally. Shivji (1989), and Nguema (1998) both observed that in the village community of ancestral Africa, life was something that concerned all the components of society and security functions were assigned to the males. Above all, however the village community had to provide for the subsistence of all its members by means of the resources and the working of the land, which belonged to the community by nature and could not be appropriated individually or privately (Nguema, 1998).

Gye-Wado, (1992) was of the view that the process of transformation which led to the emergence of feudal aristocracies which signifies the centralization of power and administration had by no means eroded some of the basic norms of human rights in Africa. Even within the centralised power structure, there was still consultation by the feudal lords on a number of issues. The feudal lord could not alienate communal land without the authorization of the relevant section of the community. The land was held in trust and traditional trust did not permit unbridled meddling nor dealing with the trust property by the trustee.

The village community in Africa was also concerned with guaranteeing reproduction and the perpetuation of the line. Nguema (1998) argues that this trend emphasized that children should resemble their parents in order to preserve the cultural identity along with the peace, harmony, social equilibrium, happiness

and prosperity of the community; in this great task of community building “old men and patriarchs” are not left out because they work in harmony to ensure peace, prosperity and social harmony through the exercise of “judicial” functions, the purpose of which was, especially to reconcile, to bring different points of view closer together, to create unity through persuasion and negotiation, but not to decide the dispute, for that would have been likely to aggravate the antagonism and perpetuate bad feelings and enmity (Nguema, 1985).

The second phase of the discourse of the concept of human rights in Africa obviously has to do with the struggle against colonialism by the colonised people. This struggle takes the form of assertion for self-determination and also some form of military resistance. The fact of colonialism suggests the erosion of human rights. Africa in the colonial era was a deeply regimented society as we had highlighted above, with rigid stratification between the European administrative cadre and the ‘coloured’ native sometimes with the marginally more privileged immigrant (from India and Lebanon) in between. The laws and regulations designed to keep this structure in place were rigid and impenetrable; the sanctions against their breach were extensive and harsh. Thus the colonised peoples were denied civil and political rights. Such rights as freedoms of association, to hold and propagate opinions or to participate in the processes of governance were severely curtailed or even not recognised for the peoples. Colonized peoples could therefore not vote nor be voted for, save in certain exceptional circumstances

(Gye-Wado, 1992). The denial of the right of self-determination resulted in the resort to armed struggles by these colonized peoples; some of it found military expression, such as the "Mau mau" rebellion in Kenya, the 'An-Lu' uprising in the Cameroons the wars of liberation in Algeria, the FRELIMO struggle in Mozambique, the Zimbabwe African People Union (ZAPU) struggle against racist regime in South Africa and the African National Congress (ANC) struggle against white minority in South Africa. Oloka-Oyango (1997) also notes that other struggle of civil character such as the struggle to abolish the 'pass', the demand for a recognition of trade union rights and the formation of political parties for political organisation also became prominent in African struggle for self-determination. A great deal of the resistance comprised the earliest forms of human rights activism on the continent, and took place outside of the colonies, in fact, in the 'mother-countries' of Britain, Portugal and France. The most famous - Pan Africanist Movement was set up in Manchester and people by legends like Kwame Nkrumah, Jomo Kenyatta, Joe Appiah and George Padmore, all of whom played a significant roles in the political liberation of the continent - Africa.

Colonialism was antithetical to human rights, it was partly responsible for the backwardness and the underdevelopment of the African continent (Rodney 1976). It denied the basic rights of a people to determine their political, economic and social future. So thorough was the mental subjection of colonialism on some

of the political leaders that, after independence, they could not help but practised what they knew and experienced on their fellow citizens (Umozurike, 1997).

It is therefore in the light of the events that preceded colonialism that this portion seeks to highlight the concept of human rights in post-colonial Africa. The political structure that was left to African leaders had some inherent contradiction which does not agree with human rights, most African countries, as they marched into independence in the 1960s, were bequeathed the Westminster constitutional and political order in the former British colonies, while constitutions in French speaking Africa were modelled on analogies taken from France or Belgium (Shivji, 1989). All the former British colonies were given written constitutions with the protection of fundamental rights as part of the independence package. The French independence constitutions paid homage to human rights usually on the International and European Conventions, although following the French practice, these were not reviewable by independent institutions such as the courts (Shivji, 1989).

Governance had passed from the hands of alien colonialists to indigenous political leaders who at a start could not allow for a pluralist political system. This negation led to the blossom emergence of one party system and ethno-religious politics all over Africa. The opposition parties being prone to oppose on every issue, became clogs in the wheels of progress. The governing parties became more intolerant, denied government resources and facilities to their opponents and

consequently misused available resources. This malady according to Umoruzike (1997) was compounded by inexperience, ineptitude and foreign manipulations to introduce colonialism in other forms. When the single party disintegrated into the military juntas, the civil society in some quotas enthusiastically welcome them as saviour or liberators but the euphoria did not last as some of the military juntas were intolerant of oppositions became more dangerous, as people were disappearing, detained and summarily executed. Umoruzike (1997) described this scenario thus:

The swords of the military hung over the heads of the tax-payer, who paid the bills. The rule of law changed to the rule of force and in some states some ethnic groups were marked out for systematic decimation and marginalization.

Personalities like Jean Bedel Bokassa (Central Africa Republic), Idi Amin Dada (Uganda) and Marcias Nguema of Equatorial Guinea reigned supreme, and competed in the perfection of torture techniques and compilation of murder statistics (Olaka-Oyango, 1997). Other human rights abuses that became more alarming in the continent were expulsion and deportation of Africans in the place of their residents by some African leaders, several examples abound, Nigerians were deported from the Cameroons soon after their independence, Ghanaians from Côte D' Ivoire, Rwandans from Burundi and vice versa. Other sorts of human rights abuses of utmost concern in the continent were trails and executions of coup plotters and political leaders.

The apparent human rights deficiencies in the continent according to some scholars (Shivji; 1989, Gye-Wado; 1992, Umozurike; 1997) attracted the attention of some African jurists from 32 countries in 1961 to meet in Lagos under the auspices of the International Commission of Jurists (ICJ) to take up the initiative calling for the creation of an African Human Rights Commission. The idea was developed and accepted by some African Heads of state, this ultimately led to the 1978 Dakar colloquium organised by the ICJ and the Association Sénégalaise d'études et de chercheurs juridiques (Senegalese Association for Legal Studies and Research), a committee set up by the 1978 Dakar colloquium to followup the conclusions and recommendations canvassed for the support of Francophone heads of state and convinced President Senghor of Senegal to present a resolution at the Monrovia summit of 1979 which instructed the Organisation of African Unity (OAU) Secretary-General to set the machinery in motion for a draft charter. At the Assembly of Heads of state and Government of the OAU at Monrovia in 1979 President Senghor presented a draft memoir and this later became Decision 115 (XVI) of 1979 which requested the Secretary-General at the time Mr. Edem Kodjo, to call together a meeting of African experts and charge them with the elaboration of a preliminary draft African Charter on Human and Peoples' Rights including, among other things organs of promotion and protection (Umozurike; 1997, Nguema 1998).

Consequently, it was at the conference of Ministers of Justice of the OAU, held at Banjul, Gambia in 1980 and 1981 and the final summit in Nairobi in 1981 that the final draft of the African charter was adopted. The charter finally entered into force on 21st October 1986, after being rectified by an absolute majority of the states, following a vigorous consciousness raising campaign conducted by certain OAU heads of State and by a number of non-governmental organizations, in particular the International Commission of Jurists (M'Baye 1985).

The charter consists of 68 articles divided into three parts:

- Part I - Right and duties
- Part II - Measures of safeguard including the establishment and working of the African Commission on Human and Peoples' Right.
- Part III - General Provision relating to ratification and special protocols, and Amendments

This bold step in drafting a charter that addresses human rights problems from the African perspective represents an amalgamation of both the traditional and contemporary thesis of the human rights debate. In an attempt at making distinction between the rights of the individual and that of the community the African charter distinguishes between Rights and duties in the African context which invariably led to the categorization of rights: the first generation of human rights relates to civil and political rights, the second generation of rights relates to

the total realisation of the individual within his environment, the third generation of rights referred to the right to peace, to the environment, to solidarity and to development (Umozurike, 1997).

Finally, one interesting area of the African charter of Human and peoples' Rights is its uniqueness, the attempt to address African human rights problem from the people point of view i.e. given a recognition to the community and regarding the individual as an element living in a community. The rights of the individual therefore must also mean an apparent duty to the community. Nguema (1998) aptly put it thus:

... but in accord with African concepts, in which rights are inseparable from duties ... These rights and duties are those of the human person as well as those of peoples, for the human person has no value in Africa otherwise than integrated into his group. The list of rights and duties, however places particular stress on those of the community (family, society, nation, state), so that the charter fits into a current that is essentially community-oriented and not collectivistic.

The emphasis on the right of the community by the African Charter talks about development which was absent in the Universal Declaration of 1948. This impact on development by the African Charter has recently led the UN to adopt the Declaration on the right to development (UN Resolution 41/128 of 1986). Africa has need for the development of the integral man in the fullness of his dimensions, without any hierarchy between civil and political rights on the one hand and economic, social and cultural rights on the other; without any hierarchy between

human and peoples' rights and without any hierarchy between the rights of the first, second and third generation. What Africa aspires towards is integrated development (Nguema, 1998). This is more fundamental and we hope to revisit the discourse on development in concrete term in chapter five.

2.3 NIGERIA IN INTERNATIONAL HUMAN RIGHTS ORGANISATIONS

Until about a century ago, human rights were regarded as essentially within the domestic jurisdiction of rulers. This traditional view was gradually eroded during the 19th century, with campaigns to abolish slavery and slave trade and to provide humanitarian care for wounded combatants, since then international law and international organizations had been concerned with human rights (Jinadu; 1982, Bailey and Daw; 1995). It is therefore, in this respect that we intend to examine Nigeria's membership in these organizations, which was significant to the development of human rights policy and awareness in the country. The major international human rights organizations that Nigeria owe allegiance to which we shall examine in this sub-topic are the United Nations Charter, the Universal Declaration of Human Rights, the two UN covenants and optional protocols, the African Charter on Human and Peoples' Rights and the Commonwealth Harare Declaration (1991).

Mullerson (1997) argued that all democratic states had in one time or the other been authoritarian or totalitarian. This was a typical description of the World before the First and the Second World Wars when human rights were

frequently violated. The decades bridging the 19th and 20th centuries saw new assaults upon human rights as well as new attempts to establish them.

The Allied Victory in World War II ended Hitler's terrible atrocities and launched a vast international human rights campaign and programme; the UN Charter drawn up in San Francisco in 1945 is significant, it made the promotion and enforcement of human rights its major concern. Although the Charter did not define human rights, however as observed by Humphrey (1989) 'in the UN charter references to human rights run through it like a golden thread. The first specific reference is in the preamble which reaffirms 'faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small. The second of such reference in Article I, puts the achievement of international cooperation in promoting and encouraging respect for human rights on the same footing as the maintenance of international peace and security and the development of friendly relations between nations as stated purposes of the UN. The third specific charter reference to human rights is in Article 13 which authorizes the Assembly to initiate studies and to make recommendations for the purpose of 'assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion'. Fourth specific reference to human rights and fundamental freedom is to be found in Article 55 which puts the Organisation under an obligation to promote universal respect for, and observance of human rights and fundamental freedoms.

The fifth specific reference is in Article 62 paragraph 2 which says that the economic and social council 'may make recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all'. Article 56 makes specific reference to members pledge to abide by the Charter. We should however note that before this time Nigeria had not yet become an independent state nor could she influence international decision on her favour. However, preceding independence Nigeria's quest for membership of the United Nations affirmed her acceptance of all the Articles and provisions of the Organisation.

According to Henkin (1978), after the Second World War, human rights in the West was seen with more broader scope to include all that make human dignity essential: autonomy, privacy, idiosyncrasy, self- development, security, peace, a healthy environment and participation in decisions that affect the individual.

The urge for human rights became spontaneous to the extent that the UN was constrained to constitute a commission on human rights in 1947 to discuss the possibilities of having a universal accord on human rights. The commission met in San Francisco under the chairmanship of Mrs. Eleanor Roosevelt (the wife of President Roosevelt of the USA), its Vice-chairman, P.C Chang from China, and its reporter, Charles Malik from the Lebanon to prepare a first draft. The commission after its first sitting in Mrs. Roosevelt's Washington Square decided to include new members from Australia, Chile, France, the United Kingdom and the

Soviet Union making a total of eight members. The commission completed its historic task on 18th June 1948, at the end of its third session the commission adopted its draft Declaration. On the 10th December 1948 the UN General Assembly in its Resolution 217 (III) adopted the Declaration known as the Universal Declaration of Human Rights (UDHR) which has come to be considered as embodying a norm of international customary law, it also asserts that a common understanding of the fundamental freedoms and rights is of utmost importance for the full realisation of the pledge made under the UN Charter. The understanding of these rights should be interpreted both at domestic level, that is, the individuals who are often victims of the violations of such rights as well as at international level that is among states. The Universal Declaration of Human Rights as declared by the General Assembly is a common standard of achievement for all people and all nations, the preamble reads:

... to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

The Declaration contains thirty articles and proclaims numerous rights which are to be enjoyed without distinction 'of any kind'. In this study we classify these rights as thus: political, economic, social and cultural rights. A detailed

classification of these rights can be found in the two UN covenants which came into effect in 1966. The rights enunciated in these instruments are usually described as programme rights. The covenant therefore relies exclusively on periodic reporting for its implementation, the states parties having undertaken to report 'on the measures which they have adopted and the progress made in achieving the observance of the rights'. These reports which are made in stages are transmitted to the Economic and Social Council, which may forward them to the commission on Human Rights 'for study and general recommendation or as appropriate for information', and to the specialized Agencies. There are also conventions and protocols; the convention on the prevention and punishment of the crime of Genocide; protocol relating to the Status of Refugees; and convention against Torture and other cruel, Inhuman or Degrading Treatment or Punishment, Prolong Arbitrary Detention and systematic Racial Discrimination.

Consequently, the UDHR and the two UN covenants' provisions are now part of the customary law of nations and therefore binding on all states including the states that did not vote for them in 1948 and 1966 respectively (Humphery 1989). These international human rights instruments have also been incorporated into the constitutions of nations either in terms or counterpart provisions.

In Africa, the ineluctable drive against colonialism had brought a mass of new states and governments that looked to the idea of human rights to achieve self-determination and elimination of racism and discrimination in all its ramifications.

in the continent. This movement led to the formation of the OAU in 1963 and subsequently the African Charter on Human and Peoples' Rights in 1981 which came into effect in 1986. Nigeria was not only a signatory but also played a significant role in the formation of this instrument. For example, at the Lagos Conference under the auspices of the ICJ in 1963 which is said to be the rudiment of the African Charter on Human and Peoples' Rights, Dr. Azikiwe the First Civilian President of the Federal Republic of Nigeria called on African States to adopt a human rights convention as an earnest belief in the rule of law; it is this call that constrained African heads of state and governments to ratify the African Charter on Human and Peoples' Rights (Umozurike, 1997).

Furthermore, Nigeria's membership in the Commonwealth enjoined her to accept all the obligations and responsibilities of the Organisation. With the current wave of democratization, rule of law and good governance as accompanied elements of globalisation, the Commonwealth of states in Harare - Zimbabwe affirmed their support to uphold the principles of good governance, rule of law and respect for human rights (Harare Declaration of 1991), and Nigeria being a member of the Organisation agreed to abide by all rules and agreement binding the Organisation.

Finally, we should note that Nigeria is not a signatory to some of the international human rights instruments we enumerated above but by virtue of her

independence and as a member of the United Nations all the provisions in these instrument apply to her.

2.4 HUMAN RIGHTS PROVISIONS IN NIGERIAN CONSTITUTIONS

Nigeria's participation in international human rights organizations had made it imperative for her to emulate and insert some of the provisions in her constitutions. The Independent Constitution was fashioned after the European Convention of Human Rights and Fundamental Freedom (1950) and it had its tenet, the protection of the fundamental human rights of the minorities.

The fear expressed by the minority ethnic groups in Nigeria that the majority ethnic groups would oppress them after the departure of the British was responsible for the inauguration of the Sir Henry Willink Commission, of 1957 known as Minorities Commission (Okoye 1997). The Commission recommended the inclusion of a Bill of Rights in the Nigerian constitution. It advised against the creation of more states since such an exercise would not solve the problem of marginalisation.

The 1957 and 1958 Constitutional Conferences accepted the recommendations of the Minorities Commission, and agreed that a list of fundamental rights should be written into the constitution to protect the Nigerian citizen from arbitrary use and abuse of power by the government. In 1959, a formal code of Fundamental Rights for the people of Nigeria was established and incorporated into the Nigerian (constitution) Order in Council, 1960 (Okoye

1997). The Nigerian (constitution) Order in Council 1960 provides against the deprivation of life; inhuman treatment, slavery and forced labour; deprivation of personal liberty; determination of rights; privacy and family life; freedom of conscience; freedom of movement throughout Nigeria and freedom from discrimination.

2.4.1 THE 1963 REPUBLICAN CONSTITUTION

The 1963 Republican Constitution recognised all the rights enshrined in the Independent Constitution. The 1963 Constitution advanced a step further to highlight that it can not only guarantee these rights but will also make sure it protects and promotes them. The flaw of this constitution was that it allowed the power of making rules for the enforcement of the fundamental rights provision to rest with the parliament. The power of the parliament to enforce rules was limited in the sense that there were no constitutional provisions for enforcement outside the jurisdiction of the court.

2.4.2 THE 1979 CONSTITUTION

The 1979 Constitution was carefully drafted in the sense that a whole chapter was devoted to the issue of fundamental human rights which were hitherto treated with complacency in the previous Constitutions and Military Decrees.

Chapter IV of the 1979 Constitution of the Federal Republic of Nigeria contains the fundamental rights provisions. The section provides for the following

rights: Right to life; Right to dignity of human person; Right to personal liberty; Right to fair hearing; Right to private and family life; Freedom of thought, conscience and religion, Freedom of expression and the press; Right to peaceful assembly and association, Freedom of movement; Freedom from discrimination and Freedom from deprivation of property without compensation.

Section 42 of the 1979 constitution contains the same restriction and derogation from fundamental rights as in previous constitutions. The only innovations in the said Constitution is the insertion of section 42 and section 6 (9) of the constitution. Section 6 (6) provides that the judicial powers invested in the courts shall extend to all matters between persons, or between government or authority, to any person in Nigeria, and to all actions and proceedings relating thereto, for the determination of any question as to the civil rights and obligations of that person. Furthermore, section 42 of the same constitution confers original jurisdiction on the High Courts of the states to hear and determine any application made to them in pursuance of the provisions dealing with the fundamental rights of the citizens. This provision allows the courts to use their interpretative machinery to determine the extent of derogation that is reasonably justifiable in a democratic society.

Similarly, section 42 (3) of the Constitution confers on the Chief Justice of the Federation the power to make rules with respect to the practice and procedure of a High Court, for the purposes of enforcing the fundamental rights of the people.

2.4.3 THE 1989 AND 1995 DRAFT CONSTITUTION

The 1989 Constitution was enacted into law as the constitution of the Federal Republic of Nigeria, 1985, Cap 63 of the Laws of the Federation of Nigeria, 1990. The constitution retains most of the provision of the 1979 constitution like the provision on fundamental human rights. Although the Constitution was never used. The 1995 Draft Constitution retained all the provisions of the 1979 constitution dealing with fundamental rights. However, the constitution further made some additions to the existing rights. These include:

1. Right to eradicate corruption which has been enshrined in sections of the 1995 Draft Constitution;
2. Right to free medical consultation: section 43 of the 1995 Draft Constitution
3. Right to Primary Education: Section 45 of the 1995 Draft Constitution and;
4. Right to acquire immovable property any where in the Federation.

Like the 1989 Constitution the 1995 Draft Constitution never came into use due to change of government.

CHAPTER THREE

3.0 HUMAN RIGHTS AND INTERNATIONAL REATIONS

INTRODUCTION: The Post-Cold War decades have come to define relations among nation-states within the prism of respect of human rights. As a standard for relation, some nations [Western nations] manipulate human rights issue as part of their foreign policy pursuit to determine the institutional structure of other nations [developing nations] by bringing about changes in their laws and practices. Following the rhymes of the post-Cold War drum, international organisations also redefined their policy objectives to include the promotion and protection of human rights. The Post-Cold War human rights concern has been viewed as decades of international human rights hypocrisy as other motives such as imperial and national interest accompanied its pursuit (Mullerson; 1997, Soberon, 1998). In this discourse we will establish the interlink between human rights diplomacy and national interest and we hope to demonstrate why human rights has become a vital component of diplomacy of virtually every Western nation and multilateral donor agencies, the World Bank/International Monetary Fund (IMF) European Union (EU), Commonwealth and the United Nations (UN). It is also in this respect that we will delve into the ongoing debate on good governance as conceived by international organisations and foreign governments a precondition for assistance, support and legitimacy for countries striving for acceptance among comity of nations.

3.1 THE POLITICS OF HUMAN RIGHTS IN INTERNATIONAL RELATIONS

The desire to create a world devoid of discrimination, atrocity and marginalisation - "a perfect world" is traceable to the Allied victory in the Second World War (1945-1948) when Nazism and Fascism were beaten and humiliated. Moreover, the plight of minorities in Europe, religious groups and the rise of authoritarianism in Africa, Latin and Central America marked the entry point of intergovernmental and non-governmental as well as scholars in the global human rights discourse and advocacy (Mkandawire; 1996, Olukoshi; 1996, Mullerson; 1997). The increasing global concern over human rights suggests an understanding of the theory of globalisation rooted in classical economic liberalism and Marxism. Conceptually, globalisation is a monumental economic integration brought about by capital expansion which also allows the free flow of people, ideas and politics to country of choice due to rising cross-border economic activities (Kanter and Pittinsky 1996). Economic liberalism also suggests that there should be political pluralism whereupon the market economy will have less interference due to governmental policies, which will allow the flourishing of the market, thereby allowing foreign governments, international organisations and authoritarian state to manipulate human rights issue for their interest (Mittleman; 1995, Tandon; 1998).

The international human rights advocacy as observed by Henkin (1978) is inspired by state egoism and selfishness which is the hallmark of the international state system "... The occasional reference to mankind is rhetoric, it has no significant

normative implications". According to the realist school of thought the global idea of international relations is about power equation juxtaposed with politics. During the Cold War struggle, Henry Kissinger (a realist scholar) one time United States (US) Secretary of state maintained that moralisation in US foreign policy has no place in the ideological battle hence politics is all about power and influence. Politics is cynically used in this context to depict who gets what, how, where and when, be it at the domestic or international front.

It is imperative to note that foreign governments and international organisations become involved in the process of institutionalising human rights in the world based on the revealing reasons this study attempts to put forward. The statement is accompanied by this question we earlier posed: What is the politics involved in the human rights agenda? The effort at attempting the foregoing question will be made by unravelling the debate over human rights in the international system. This is significant as issues of human rights have become encapsulated in contradictory global political processes, in which genuine desire and advocacy for civilised conduct and respect for fundamental rights of peoples by their governments are counter-posed by the foreign policy objectives of major nations in the international system, especially in this era of the so-called new world order, characterised by the hegemonic influence of the United States of America and other Western capitalist countries (Jega 1997).

Many governments (Western governments) have used human rights as it suited them, cynically, manipulating public opinion at home and exerting pressure on their

political and ideological adversaries (now on China the surviving communist nation) while at the same time ignoring violations by friendly dictators (Mullerson 1997). This is largely because the expressed concern over human rights issues seems hypocritical, selective and biased especially given their (Western countries particularly US) poor record of ratifying or complying with international human rights covenants and conventions, and their records of violations of the fundamental rights of their citizens (Jega 1997).

3.2 HUMAN RIGHTS PRACTICE IN WESTERN COUNTRIES

We hope not to venture into the debate on what is being referred to as the "West" because the West is in fact a complex entity which encompasses many perceptions and concepts (O' Hagan 1995). The West is not just a location; it is a way of life that defined itself by a system of liberal democratic politics and capitalist economy. Countries in Western Europe and North America are identifiable with these ideals. Our discourse will cut across, their allegiance to those value system and the inherent contradictions that characterised the professed values.

Broadly speaking, the USA Declaration of Independence (1776) and the British Magna Carta Libertatum (1215) was founded on liberal democratic values that espoused the right of individual and the rule of law. Stretching back to the founding of the republic, America has stood for life, liberty, equality and as the Declaration of Independence puts it, the "pursuit of happiness". American politics has over the centuries tended towards greater democracy, openness, pluralism and transparency

(Wiarda 1997). America has long believed in limited government, a weak state, checks and balances and as John Locke, the founding oracle of Anglo-America republicanism put it, "estate", by which he meant the right to acquire, hold, and dispose of private property.

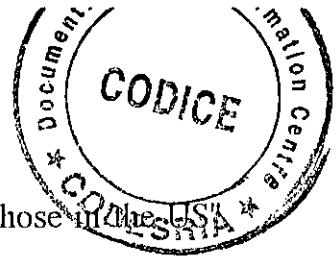
Right from the beginning, America believed in and practised exceptionalism in its foreign affairs as well as in its domestic politics and beliefs. In the famous doctrine that bears his name, President James Monroe compared the Old World of European powers with the New World of the Americas. He remarked that they are mainly monarchies and practitioners of absolutism and autocracy. He puts it in this way "while we practice republicanism they (Europeans) believe in domination and tyranny while we practice liberty they practice domination. Moreover they practice the European strategies of colonization and Empire while we believe in freedom. And they utilize the Old World techniques of diplomatic secrecy, balance of power and Machiavellianism while we are the apostle of openness, moral precepts and honour" (cited in Wiarda 1997).

Indeed, in the actual conduct of its foreign affairs the US continued to practise and proclaim its distinctiveness - even while later skeptics expressed doubts as to the purity of American motives. In an interview with A.B. Mahmoud (*Field work 1999a*) on his perception of America's human rights pursuit. He observed that America has thus always justified its great power or national interest pursuits with the language of moral superiority and purpose. This need for high moral purpose in US foreign policy

extends to today: when George Bush sent US troops to the Persian Gulf in 1991 to defend US oil interests, it was not sufficient for him to proclaim that the US was operating from the principle of self-interest. Instead as observed by Wierda (1997) US had to demonise Saddam Hussein as a new Hitler and proclaim US military efforts to roll back the Iraqi forces as a war against "naked aggression". Similarly, current US efforts in China or Russia cannot be set forth as simply balance-of-power politics the effort to check and contain former or future rivals and adversaries but as a campaign to bring democracy, free enterprise and human rights to these nations (Thonvber 1996, Wierda 1997).

America cannot be, as Regan suggests, the "last best hope of man on earth" unless it is prepared to restore to its rightful place in American national life respect for and protection of human rights at home and abroad. This statement is not without its implications, this is so because the place of morality in the West is fast eroding due to vast changes in the global political economy. Democracy may ensure that freedoms are protected and guaranteed in the Western countries but it also finds expression in the return of racism, xenophobia and the resurgence of exclusive local allegiances. The liberal values that the West presumed to be promoting around the world are grossly perverse at home.

The human rights practice of the Western countries is full of violation and abuses. This is revealed at the 53rd session of the United Nations Human Rights Commission at Geneva by the Chinese delegates on a document submitted to the



commission entitled "Comparison of Human Rights in China with those in the US". The document made an ostensible revelation of human rights practice of the West which is problematic. In fact, the document drew attention to the fact that the so-called parliamentary democracy which the US holds forth as the flagship of its human rights practice is hopelessly skewed in favour of the rich members of the society, pointing out that "the ratio of millionaires in the US congress is at least 30 times that of millionaires in the US society as a whole, which is less than 0.5 percent" (Today Newspaper 6-11 April 1997).

It is further argued that the US is the country with the serious violent criminal act. "On average, two million cases of criminal violence occur annually with six million victims of whom 24,000 are murdered". "On average, one person in every 14 minutes is currently murdered, and 1,100 people are daily assaulted in the US. The number of people murdered in every 100 hours on US streets is three times that of US troops killed in battle in every 100 hours during the Gulf War" (The Chinese document). The document further revealed that in "1993, 12.4 out of every 100,000 US males were murdered and about 9.8 out of every 100,000 people were murdered everyday", indicating that the proportion is five times that of China and much lower in other Third World countries which the US is censuring for the so-called human rights abuses. "A survey by the US Federal Foundation said that a total of 1.5 million women had been raped over the previous five years, and 7.6 million women were victims of murder, robbery and assaults". The Chinese document further cited a US

Department of Justice report which in 1995 showed that at least 500,000 rapes occur annually, at the rate of almost one per minute, as well as the UN Human Development Report whose 1995 version indicated that "one out of six American women stands a chance of being raped during her life-time". The US has the largest prison population in the world. 1995 US Department of Justice Report indicated that "the number of Federal and state prisoners exceeded one million in 1994" and that "when those held in other jails are added, the total comes to around 1.5 million the ratio of prisoners to total population being 365 per 100,000. These facts and figures are espoused in the writings of Chomsky and Herman (1979) which thus argued to a reasonable degree that America culture is a culture of violence that encourages violence on a greater scale through formal institutions. Attention here is drawn to legal acquisition of firearms for the so-called self-protection of individual which is encouraged in American society.

It was also revealed that in spite of all the talks by the US about respect for human dignity the truth is that "it has the most serious problems of infringement on citizens privacy among developed Western countries, for according to International Labour Organisation (ILO) sources in 1994 as quoted by the Chinese document, "every year about 20 million American employees are monitored by electronic devices accounting for 8 percent of the country's total population. The US has been using human beings as guinea pigs in scientific tests. The report quoted a 1994 official US source to the effect that, "in the 30 years after World War II the Federal government conducted 1,400 different radioactive experiments in which 23,000 people were used

as guinea pigs. It further stated that, "in the 48 disclosed nuclear radiation experiments with human bodies as target, about 1,200 have suffered nuclear radiation" (Chinese document). This is a wholesome violation of social rights spelt out in the UN Covenant on Economic, social and Cultural rights. Another violation of the right stated above is that in the US women do not enjoy equal pay for equal work with their male counterparts. "In 1993, the poverty rate for women (14.9 percent) was more than 1.5 times that for men (9.7 percent) in the US" (Chinese document).

According to the Chinese document, one of the greatest manifestations of the enormous human rights problem in the US is the issue of racial discrimination the non-white "the black people, Hispanics and other ethnic groups now account for 17 percent of the total population. However only a tiny number of them can squeeze into the upper circles in the political economy and social spheres". The ratio of black congressmen is 7.4 in 1992 lower than the ratio of black people in America. Racism has immensely spread to the social sector like sports. Africa-American are ensnared and blackmailed for rape attempt and sexual harassment, or drug trafficking (the case of Mike Tyson, Ben Johnson etc). The Youth in America especially the white are responsible for most of the country's violence against the black, Hispanics and other races. It is being pointed in the Chinese document that even though blacks account for only 13 percent of the population in US their number which is murdered is six times the figure for white people. Moreover, some 54.2 percent of the country's criminals, over 40 percent of the convicts sentenced to death and 48 percent of the homeless are

blacks. "In sharp contrast, of the 5.1 million convicts in jail, black and Hispanics and Indians lived in poverty, triple the rate for white people". Furthermore, the plutocratic government of the US is constantly exterminating the Africans-Americans by legalising the Ku Klux Klan organisation in the Southern state, burning sacred houses of worship, suppressing the voices of dissent among them by throwing them into jail without fair hearing (The Chinese document).

In the United Kingdom (UK) there has been an upsurge in racist violence, mainly in towns and cities and also rural areas, in all these the non-white are the targets. In another dimension, Britain has been indicted on several occasions by the United Nations Human Rights Commission over human rights violation in Ireland. It has been confirmed that several people are presently experiencing "hell on earth" in different British prison especially members of the Irish Republican Army (IRA). In France public opinion polls also reveals a growing race prejudice and racist attitudes. The most conspicuous sign of racism has been the rise of a populist nationalist party, the Front National, which has scored considerable success in elections since 1983. The party gives shape to popular feelings in which racism, more than antisemitism, has an important place. In Germany, violence has more to do with xenophobia than with racism and this involved groups skinheads or neo-Nazis youth who in September 1992 were involved in the bombing of a hostel for immigrant workers in Hoyerswerda. In Italy, it was an anti-immigrant racism which mainly due to social tension as a result of dislocation of the urban fabric where there are large

numbers of immigrants. In Belgium, on the other hand, racism is above all political and institutional. There is very little but extreme right-wing parties are growing especially the Flemish Vlaams Blok Party, whose focus on inter-community differences is largely shaped by the crisis of the state and Belgian national identity as well as by tension between the Flemish and Wallon communities and Brussels (Wieviorka 1996). In Canada, the prevalent problem over human rights issue cut across the division along French (minority) and English speaking people (majority).

In addition to the racist issue stated above, human rights practice in the Western countries has no much significant difference from that of the Third World countries. The high level of development of the West made it possible for them to dominate the world. This also placed them in advantage position to be critical of any rights violation in the less develop ones and being oblivious of their own human rights abuses. The monopoly of modern communication technology like the cable networks by the Western capitalist nation is an advantage for them to monitor and criticise human rights violation in other nations particularly the Third World countries. In an interview with Mustapha A. Rauf (*Field work 1999b*) on whether the Western nations discourages human rights abuses in the Third World countries. He assert that the Western nations encourage human rights abuses in the Third World countries. He cited the supply of arms by the Western nations to authoritarian governments in the Third World countries. Dictators were equipped with modern arms to repress the civil society for the interest of the West and government in power. In Nigeria for example,

in 1988 when the civil society revolted against the introduction of Structural Adjustment Programme (SAP) and in 1993 against the annulment of the Presidential election the authoritarian junta of General Babangida did not hesitate to use the arms acquired from the Western countries on the armless masses, thereby leaving scores of persons death on the streets.

3.3 HUMAN RIGHTS DEBATE, ADVOCACY AND ENFORCEMENT

In a world in which major adversaries see themselves locked in an irreconcilable ideological and political conflict, there is little room for the pursuit of human right concerns. In fact, there is small reason to believe that the language of human rights will be used for any purpose other than to attempt to gain political advantage (Donnelly 1991).

This also follow the observation made by Mullerson (1997) that the Cold War period signified the struggle over human rights between the West and the East, liberal democracy and Marxism-Leninism. It was a dispute between two incompatible ways (markets versus planned economy, state totalitarianism versus democracy, privilege for conformism versus human rights). At the end of the day, one had to lose, Communism lost.

Before 1990, it was enough to be anti-communist to be a friend of the West but these days the drum has change, for you to be a friend of the West you just need to apply the rules of good governance, human rights and the market economy (Ihonvbere; 1996, Olukoshi; 1996, 1998b, Soberon; 1998).

The expressions over human rights concern raised the debate over the universality of the concept. The debate became protracted at the Vienna Conference of 1993 where Asian and African representatives at the conference pointed out some flaws in the Universal Declaration. Thus, they argued that the concept of universal human rights should not be use for every nation as Osita Eze puts it:

Human rights concepts such as the right to participate in one's government, right to property, freedom of movement and even what might be considered basic such as right to life have different meanings in different socio-economic system (Eze 1985).

There are, however so many exceptions to the principle of universality. The right to marry in most parts of the world involves members of the opposite sex but in the West it is increasingly been extended to homosexual marriages despite strong objection from certain quarters. In states that death sentences have been abolished, the right to life is absolute while in other states where death sentence may be imposed, it is qualified or limited. For example, in the USA the right to life is still limited hence death sentences is still effective on grievous offences. Whereas the freedom of worship includes the right to change one's religion, the muslims regard such a change apostasy. The right to remarry varies even among christians sects. Women are officially bared from the priesthood in catholic church but not in some other churches. In countries where kings and Queens reign, that class of individual is given special privileges desired to other citizens. It follows that the universality of human rights varies to a great extent and is subject to remarkable specificities and peculiarities (Umzurike 1997).

Another area of contention was the fact that the perception of human rights differs in continents. For example, the Western industrial countries espouse the priority of civil and political rights, while both the socialist and non-socialist Third World countries and the Eastern bloc countries argue the priority of economic, social and cultural rights. In this case universality might seem dangerous because of the varying need in various continents of the world.

The Vienna Conference was remarkable in the sense that conflict and consensual areas of the Universal Declaration were identified and smoothed. Extending the debate on universality of human rights at the Conference to other areas, a question was posed by Asian representatives: "does the recognition of the universality of human rights really mean that it is necessary to reject the obvious cultural values of states? The answer was that regional and national peculiarities have to be born in mind in the implementation of universal human rights standards. Foreign Minister of Singapore, Wong Kan Seng in his remark at the World Conference on Human Rights in Vienna Warns that 'universal recognition of the ideal of human rights can be harmful if universalism is used to deny or mask the reality of diversity.' Due to the intensity of the debate on the universality of human rights Aung San Suu Kyi (the Noble Peace Prize Winner of 1991 from Myanmar) became critical of the discussion the debate has generated. She run to a conclusion that, 'when Western democracy and human rights are said to run counter to non-western culture, such culture is usually defined narrowly and presented as monolithic and also regarded as

nations that violate fundamental human rights. But when it promotes Western ideals it is acknowledged that such a nation is democratic.

In an interview with Jubril B. Moh'd (*Field work 2000a*) on his assessment of Western human rights, he maintained that respect for human rights has come a long way as human rights practice is virtually encourage all over the globe but a critical review of the Western version which is being foisted on Africa particularly Nigeria need to be done. Western human rights negate the promotion of economic and cultural rights which is assumed to awaken national consciousness and perhaps challenge Western hegemony and denounce Western cultural imperialism. It should however be noted here that those values that liberal democracy seeks to promote can be found in many cultures as human rights are inherent in human beings, the differences in the promotion of these values is institutional and mechanical hence the level of development of each continent determine it level of concern and expression.

Howard (1986) share a different view on the human rights debate, although she agreed that all human society share the notion of the inalienable right of human beings but some cultures (referring to Africa and Asian nations) according to her deliberately construe the concept of cultural relativism and specificity to legitimise their violation and continue hold on power. She disagrees that there is no specifically African concept of human rights. She contended that the argument for such concept is based on a philosophical confusion of human dignity with human rights, and so on an

adequate understanding of structural organisation and social changes in African society. She articulates it in this form:

Underlying this inadequate understanding, a number of assumptions regarding the meaning of culture are used to buttress the reliance on the assertion of 'cultural relativity', in order to argue that the allegedly 'Western concept' of human rights cannot be applied to Africa and Asia (Howard 1986).

Shivji (1989) shared Howard's view of human rights as being the right of all human beings but completely disagrees with her notion of human dignity as being confuse in the African human rights philosophy. Shivji like other scholars contended that the current human rights ideology is an ideology of domination and part of the imperialist world outlook (Chomsky and Herman; 1979, Eze; 1985, Shivji; 1989). Africa according to Shivji has a tradition of communality and therefore hold the respect of rights of person(s) in high esteem. This was disrupted as a result of European adventurism which deremphasize communalism for individualism which is contrast to African way of living (Shivji; 1989, Gye-Wado; 1992, Nguema; 1998).

In spite of the different expressions, thought and feelings on the universal application of human rights there was a common strand that run through the whole debate. At the Vienna Conference it was unanimously agreed that 'human rights and fundamental freedoms are the birthright of all human beings and this must be recognised in every society irrespective of their culture, system of governance and institution; because human rights is an inalienable right of all human beings acquired by virtue of their humanity. It is therefore something human beings everywhere and at

all times ought to have; it is something which no one may be deprived of without grave affront on justice (Cranston; 1979, Shivji; 1989, Asobie; 1997, Umozurike; 1997).

The triumphalism of bourgeois liberal democracy over other ideologies has left the former championing the course of liberal-capitalist ideology in the guise of humanitarian and technical assistance to impoverished nations of the world through first the contrived Marshal Plan and now the IMF and the World Bank. These institutions traced the impoverishment of the Third world countries to structural and institutional defects. And as a result, a number of options were offered to these countries which include among others putting in place a good enduring democratic institution that will respect the rights of the citizen and also allow the free flow of capital from other countries into their economy. This option is encapsulated in what is commonly now refer to as "good governance". Foreign governments especially in the West became active in the advocacy for good governance as the basis through which human rights will be encourage and uphold in countries where authoritarian governments are in power.

Globalisation has indeed compressed the world in such a form that every action against groups, community, individual dissidents even coup plotters come under the very critical scrutiny of international human rights groups and foreign governments (Mittleman; 1995, Ihonvbere; 1996). Societies are now judged by the world at large, and the events that take place in them are matched against the account they give of themselves and the values they claim to epitomise. The issue of human rights and

democratisation, narcotics and trade liberalisation have become the yardstick by which the international standing of any nation is measured ...developing countries... are now required to accept these norms as a condition for access to international trade and financial institutions (Vision 2010 Report 1997).

It appears like democracy and human rights are guiding principle of relationship between Western nations and developing ones, this is glaring in their policy rhetorics. One time British Foreign Minister Douglas Hurd gave a speech in which he maintained that economic development and so-called 'good governance' go hand in hand in developing countries. He continued, "economic success depends extensively on the existence of an efficient and honest government, based on political pluralism and respect of the law and free and more open economies" (Olsen; 1998). Former French President Francois Mitterand also pointed out at a meeting with African heads of state that in the future France would be less liberal in granting assistance to 'regime that have an authoritarian approach without accepting an evolution towards democracy (Overseas Development Institute, London January 1992). The all-pervading nature of human rights in human endeavour was underscored by Madeleine Albright, the US secretary of State, during her tour of some African states towards the end of 1997. She urged her hosts to recognise "the need to make sure that human rights continue to be the bedrock of our whole relationship". She went on to threaten Mr. Laurent Kabila the leader of the Democratic Republic of Congo that "Financial

and technical assistance would be cut" on account of non-observance of human rights (New Nigerian Friday March 6 1996).

The human rights advocacy and the emphasis on good governance by the Western nation often come under serious criticism due to its double standards, and its hypocritical nature of pursuit and enforcement. It is argued that good governance cannot be merely willed into existence or imposed through aid conditionality or other method of external pressure since it is a product of political culture as well as institutional structure (Gills and Philip 1996). Mullerson (1997) contended that the nascent international human rights advocacy has little genuine humanitarian reasons as long as there are imperative of realpolitik. Shivji (1989) also observed that:

like other ideologies of domination in yester-epochs, the dominant human rights ideology claims and proclaims universality, immortality and immutability while promulgating in practice class-parochialism, national oppression and 'patronising' authoritarianism.

A remark was further made that the leadership in the US as a result of its dominant position and wide ranging counter-revolutionary efforts has been the most single instigator, administrator and moral material sustainer of serious bloodbaths in the years that followed World War II (Chosmsky and Herman 1979). During the Cold War, the Western countries (particularly the US) had showed little concern for ensuring respect for human dignity especially when they sacrificed human rights and supported repressive regimes in different parts of the world when it was deemed to be necessary to counter the threat of communism. For example, the US supported unpopular

authoritarian governments like the Sha of Iran, Somoza of Nicaragua, the UNITA rebel leader of Angola - Jonah Savimbi and host of others to come to power in their regions. At the same time in the 1980s the US invaded Grenada, Panama, Haiti and Iraq in the 1990s and also subdued opposition forces in the Philippines and brutally drove native Americans into reserved areas on alleged ground of gross human rights violations of those countries. The list of such intervention in the 1990s is myriad considering the major interferences of the US in other continents (Chomsky and Herman 1979, Mullerson 1997).

It is also difficult to imagine that the US or the European Union (EU) would cut its aid to countries such as Egypt, Turkey or India, although all are accused yearly by Amnesty International of serious human rights violations. And for France the partly emotional commitment to maintaining its 'sphere of influence' in its former African colonies continues to outweigh its support of democratic values (Ihonvbere 1996, Uvin 1993).

There are indeed double standards in the human rights pursuit of Western countries. For example, recently the US establish diplomatic relations with Vietnam and it continues to trade even with Nigeria, China and Saudi Arabia while retaining in place the embargo against Cuba and Iraq on account of their human rights records. This shows that economic and security concern seems to speak against showing too much interest in human rights in at least some countries. Robert Manning for example, writing on US foreign policy towards China observes that:

a new three-tier framework of human rights, political/strategic issues and economic affairs is gradually emerging and Clinton's new challenge will be to set political priorities to manage these issues and establish benchmarks of behaviour (Manning 1995).

However, the recent practice of US-Chinese relations shows that these tiers often seem to work against each other and concerns for human rights are certainly not the issue of utmost priority among them (Mullerson 1997).

It is however now an establish fact in the present dispensation that the language of rights in human rights which intertwined with liberal democracy is related to a commodity producing society (Shivji 1989). The whole idea of politics of human rights in international relations revolves around market economy and strategic concern, is not only whether a country is pro-west in its foreign policy or violate the right of it citizens, but how liberal and viable is her economy and moreso how strategic is that nation to the West. The decription of human rights diplomacy in international relations by Cassese (1990) as an attempt to bring rationality into the political institutions of societies of all states is inadequate because the nascent global human rights concern is limited. Actors in international system are no longer concerned with the ethical/moral aspect of human rights instead are concerned with the political aspect which will allow them (Western countries) to interfere in the internal affairs of developing nations. Richard Falk summed it in this way:

Human rights on the international level, it is a rationalisation for interference and intervention as well as domination of the

Third World countries (in the interest of democracy and free world) and on the domestic level it is an important element in reproducing the hegemony of imperial bourgeois ideology by bolstering the image of the US as a country maintaining civilized human standards internationally (Falk 1979).

This has been made possible through the process of globalisation since we live in virtual and widespread proximity due to technological progress that has supposedly turned the world a "global village". Everyone is everyone else's neighbour (Soberon 1998).

3.4 INTERNATIONAL ORGANISATIONS AND HUMAN RIGHTS DEBATES

At no time in the post-Westphalia history of the contemporary state system have non-state actors wielded more relevance, influence and power than at the moment (Thonvbere 1996).

Boutros Boutros-Ghali one time United Nations (UN) chief scribe warns that "the time of absolute and exclusive sovereignty... has passed" and states must "find a balance between the needs of good internal governance and the requirements of an ever more interdependent world" (cited in Ihonvbere 1996).

Today, human rights groups such as Amnesty International, Human Rights Watch, Civil Liberty Organisation challenge the state's claim to be the sole dispenser of justice. In some cases, the International Monetary Fund (IMF), the World Bank and other UN agencies have cut aid to the very worst human rights violators (Ihonvbere; 1996, Olukoshi; 1998b).

The political and economic problems faced by African states today dates back to the colonial period whereby institutions of governance was highly stratified and could not allow participation from the ruled. After independence Africans had to contend against the imposition of one party system and military rule. These struggle continued with varying levels of intensities until the mid-1980s onwards when with the rapidly changing international environment the domestic social forces for change in the way Africa had been governed politically and economically were emboldened and re-asserted themselves to unleash popular pressures for political reform towards the end of the 1980s and early 1990s (Mamdani and Wamba; 1995, Oloka-Oyango; 1997, Olukoshi; 1998b). Also non-state actors like the one mentioned above formally became involved in the struggle for institutional restructuring in the African continent through their credit facilities and technical assistance. The pressure on target governments was not in the form of sanctions or threatened cut-off of aid, but mainly an engagement in dialogue and reward for improvements. This was the genesis of the political/economy package encapsulated in what is refer to as the "good governance package". In many respects the World Bank, given the resources at its disposal and its wide reach, came to set the pace for other donor like the European Union (EU) and the Commonwealth including many of the bilateral institutions which are also concerned with the question of good governance issue (Olukoshi 1998b).

World Bank defined governance as "... the manner in which power is exercised in the management of a country's economic and social resources for development"

(World Bank: Governance and Development 1992. Washington, D.C). The language of the Bank's governance discourse ("civil society", "accountability", "empowerment", "rule of law", "popular participation" etc) is one which, on the face of things, fit into the renewed global interest in issues of democracy, the governance programme is, in fact, reduced to a managerial/technocratic affair tailored to the goals of an adjustment programme that, in the view of many, has at the very least, contributed to the reproduction/intensification of authoritarianism in Africa (Olukoshi 1998b). The case of Nigeria came to bear as the implementation of the Structural Adjustment Programme (SAP) which is the cardinal goal of World Bank/IMF package severe relationship in the country and increase authoritarianism rather than democracy (*Jega 1999f, Field work*).

Thus, in the end, the Bank's governance agenda is part of a broader project of managerial populism which does not signal the down of a new era of "adjustment with a democratic face" which is able to dovetail into what Mkandawire (1996) has described as "democracy without tears". For stripped of its rhetoric, the governance programme of the Bank fails to address the question of why the politics of adjustment has been so repressive in Africa (Beckman 1992).

For Beckman, as for other critics, the governance programme of the Bank is also aimed at establishing an alternative basis of popular legitimacy for structural adjustment. That is why notions such as "grassroots empowerment", "mobilisation", "civil society" "equality" and "participation" have been central to its governance

discourse (Beckman 1992). But at the hands of the Bank, the political-democratic side of these concepts are down played and their technocratic-managerial ones played up. Thus, for example, in the Bank's "political economic" "empowerment" refers, in the main, to freedom for local private entrepreneurs and not to the institutionalisation of popular participation in collective decision-making. Seen from this angle, the donor concern is therefore, less with democracy and human rights and more with "development empowerment" (Olukoshi 1998b) if ever so.

Furthermore, taking stock of the governance agenda of the Bank, Beckman (1992), in one of the most powerful published critiques of its 1989 report, persuasively argued that the institution's intervention (in political and economic) arena seeks to boost state capacity for orthodox adjustment implementation not by addressing the objectives of those opposed to the programme but by seeking to undercut their political and ideological legitimacy. This is done partly by feigning a consensus that does not exist and partly by the promise of a better, rossier tomorrow that may never come but which helps to shift focus away from the adjustment (Olukoshi 1998b).

The good governance idea borrowed from the World Bank by the EU and the Commonwealth was meant to strengthen their institutional base lending capacity and further their interferences in Third World politics and economy. For example, the Nigerian-Commonwealth impasse of 1995 clearly demonstrated that Western countries, Canada and Britain were in the organisation in order to promote their national interest if we evaluate their reactions to the Nigerian political quaqmire.

Countries in the Organisation are not treated on equal basis because of their strategic and economic importance. It is on records that several times Britain and the US had vetoed UN resolution in the Security Council against the then apartheid South Africa in spite of her racist policies. Consequently, sanction imposed on Nigeria as a result of human rights violation was also selective because it does not involve some key sectors like petroleum and import which might inversely affect the economy of Western nations. The masses at the receiving end whose rights were violated were the worse affected because the sanction placed on the country (Nigeria) increased repression rather than a movement toward democracy and rule of law.

It is germane here to understand the Western human rights diplomacy within the context of procedural and institutional paradigm drawn by A.R Mustapha. In a discourse with Abdul Raufu Mustapha on his opinion of Western human rights agenda on whether it is political movement or ethical/moral awareness. He assert that human rights agenda both at policy and scholarly level is procedural and institutional. Procedural because an ideology (referring to Western Liberal ideology) that claimed to be superior to other ideologies which Huntington (1993) Identify as "Western civilisation" is pursuing a course of knitting the world together through the promotion of economic interdependence. The processes of achieving this is what he termed as "institutional". That is, institutionalising a "universal civilisation structure" that will produce good conduct as well as serve the interest of the West. The selective sanction on Nigeria in 1995 and 1996 can be understood within this paradigm, as political pluralism in the light of heavy economic dependence result to increase repression and recklessness.

CHAPTER FOUR

4.0 THE STATE AND HUMAN RIGHTS SITUATION IN NIGERIA

INTRODUCTION: The state in Post-colonial Nigeria has been regarded as an abstraction that exists outside the society not only empowered to perform palliative and arbitrate functions but also repressive functions (Beckman; 1992, Welch Jr., 1995, Olukoshi; 1995, 1998a, Lewis et al; 1998). The deepened economic crisis of the 1980s accompanied by World Bank/International Monetary Fund (IMF) sponsored structural adjustment programmes and the 1990s democratic resurgence in Africa are responsible for state authoritarianism in Nigeria. The new function the state assumes (authoritarianism) placed it in contrast position with the civil society, advocates of civil liberties. Olukoshi (1998a) observed that in this struggle many Nigerian professionals jettisoned their narrow professional concerns and embraced the radical platform of the human and democratic rights movement on a scale not previously seen in post-colonial Nigeria. As the struggle became more intense, international donor agencies hold the view that strengthening civil society must be a specific objective of their aid schemes since their target is to stimulate political pluralism and encourage economic liberalism in recipient countries.

Suffice it here to say that the civil society counter-position is responsible for its vulnerability and exploitation. To reiterate our research question: has there been human rights violation in Nigeria? This chapter will approach the question by constructing a conceptual framework for understanding civil society to enable us

identify the relationship that exists between the state and the civil society. The discourse will further delve into the on-going debate for civil liberties in Nigeria and its uncontested effort for human and democratic rights. The objective of this chapter is to provide us with a broad sketch of human rights situation in Nigeria and civil society advocacy for civil liberties.

4.1 CIVIL SOCIETY CONCEPTUALIZATION

The understanding of civil society requires some form of historicism as many (CRD 1999) argued it is an illusive concept which does not exist in reality.

The debate on civil society is problematique in the sense that the romance with the liberal pluralist paradigm had overwhelmed the Marxist paradigm which provides that civil society conceptualisation can be appreciated using political economy approaches to explain the linkages between the past and the present.

Today, contemporary discourse on civil society lies in the liberal pluralist paradigm. The works of John Locke and George W.F Hegel best represent the formative stages of the liberal paradigm. They represent two extremes of this paradigm. While Locke privileged the individual over the community (the state), Hegel privileged the community over the individual. Locke contends that civil society emerged from the state of nature by constituting civil power on the basis of consent of its members. For him, civil power is the right to make laws with penalties for purposes of regulating and preserving individual property and employing the force of the community in enforcing such laws (cited in Ibeanu 1999). While Hegel on his part

contends that the community (state) represents rationality in human society and therefore is responsible for moral elements such as laws and rationalities (cited in Ibeanu 1999).

Liberal pluralists holds the view that civil society is an autonomous voluntary group and association of rational persons created by the interaction of their interests. Civil society can be in form of networks, advocates or reactionary groups which interact with the state yet maintain their independence. The interaction in the liberal paradigm described another conception of civil society based on political and sociological context. The political context is related to the liberal democratic theory and focuses on civil institutions and political activity as essential elements of political society based on citizenship rights representation and rule of law. The sociological conceptions on the other hand, concentrate on an intermediate associational realm situated between the state on the one side and the basic building blocks of society on the other (individual, families and organisations) inhabited by social organisations with some degree of autonomy and voluntary participation on the part of their members (CRD 1999).

The history of civil society in Nigeria is traceable to society's reaction to colonial rule perceived essentially as an alien, exploitative force (Abgaje 1997). This stage was followed by the formation in certain urban centres of associations and groups focusing mainly on local issues of mutual aid for housing and education, and on highlighting evidence of maladministration in the colonial regime or instances of

colonial insensitivities in the areas of local customs, tax, land and other legislation among others (Sklar cited in Agbaje 1997).

The second stage of civil society development in Nigeria accompanied the formation of trade unions, urban elites and other informal groupings prominently in rural communities who became vanguard in the struggle for independence. These mass groupings essentially involved in the struggle for self-determination and actualisation. Although these groupings were later faced with myriad of problems ranges from poor organisational structure, lack of cohesiveness and easy yielding to social cleavages and colonial manipulations as a result they became vulnerable to the colonial administration and interference (Sklar cited in Agbaje 1997).

The third moment of civil society development in Nigeria is characterised by the absorption of civil society into the state. After independence in Nigeria the state became deeply involved in civil society activities. For example, in the 1970s, 1980s to the 1990s it was alleged that the state was directly involved in the formation of co-operative societies, professional associations and trade unions (CRD 1999). Example abound in the formation of the Nigerian Labour Congress (NLC) in 1975 and the subsequent civil service reform that ensued in 1978. In the 1990s the state was directly involved in welfare provisioning by state-managing programmes like Better Life Programme (Later Family Support Programme), Peoples Bank and Directorate of Food Roads and Rural Infrastructure (DIFRRI).

Ibeanu (1999) holds the view that the nascent civil society was a rediscovery and break loose from the grip of the state, he aptly puts it thus:

This present moment of civil society in Nigeria is marked by vibrant mass organisation which is not created by the state responding to the negative socio-economic and political conditions under which the vast majority of Nigerians live (Ibeanu 1999).

From the late 1980s, however, a new consensus gradually emerged such that "the armed forces compounded Nigeria's political and economic problems", leading to concerted attempts by groups in civil society to achieve the military's withdrawal from public life (Agbaje 1997, Lewis et al 1998, Olukoshi 1998b). Agbaje (1997) further observed that civil society in this period was strengthened by expansion in education, networking of professional associations an increasingly vibrant oppositional press, sections of organised labour, market women associations, students, occupational groups and an increasing vigorous network of human rights organisations.

4.2 THE MILITARY, CIVIL SOCIETY AND HUMAN RIGHTS IN NIGERIA

An overview of the Nigerian political terrain reveals that out of the 39 years of independence the military have been in power almost close to three decades 29 years to be precise; a period replete with coups and counter coups; a period of deepened patrimonial tendencies and authoritarianism that increasingly siege civil and political society by subverting democratic elements (Lewis; 1996, Ihonvbere; 1996, Agbaje; 1997, Olukoshi; 1998b).

The 1983 coup d'tat of Generals Buhari/Idiagbon formally institutionalised authoritarian rule in Nigeria. The first blow to Nigerians was the replacement of the 1979 Constitution by Decree No. 1 of 1984 (Suspension and Modification Decree), the decree declared that:

if any law enacted before December 1983, including the Constitution of Federal Republic of Nigeria 1979 is inconsistent with any Decree promulgated by the Federal Military Government, the Decree promulgated by the Federal Military Government shall prevail and that law shall to the extent of the inconsistency be void (Suspension and Modification Decree No. 1 of 1984)

In the early months of the regime General Buhari and his second-in-command major General Tunde Idiagbon (late), took a number of drastic steps to curtail political corruption which almost rift the nation. In fact, this measure left so many politicians arrested and investigated; a number of prominent office holders received lengthy prison terms for financial misconduct (Lewis et al 1998). The military government also attempted to restore a measure of social order and civility to an unruly public arena. War Against Indiscipline (WAI) was launched in that same year to bring about sanity and discipline to the unorganised Nigerian society.

In the economic realm, however, the Buhari/Idiagbon leadership proved little more adept than its predecessors (Lewis et al 1998). While successfully impossible a degree of fiscal austerity, the regime had few means of reviving production or restructuring the country's large foreign debt. Talks with the multilateral financial institutions, which had started in 1983, soon went down over government's refusal to

consider key economic policy changes. Outstanding debt service continued to mount. The economy stagnated in the absence of basic reform of the domestic economy or its international financial position. The economy decline, while suffering, rising inflation and unemployment increases (Lewis 1996).

The initial enthusiasm that had greeted the Buhari government soon died off as repression and economic drift set in (Lewis et al 1998, Abubakar 1998). Ihonvbere and Vaughan put it in this way:

A combination of repressive decrees, resistance to IMF conditionalities, counter-trade with several European nations, imposition of new levies and taxes and a crackdown on political expressions did not win the new regime mass support in critical sectors of the Nigerian society (Ihonvbere and Vaughan 1995).

As the Buhari/Idiagbon regime consolidated itself on power various military Decrees were promulgated with ouster clauses limiting the jurisdiction of the courts. Example of such Decrees are the State Security (Detention of Persons) Decree No.2 of 1984. Under this decree second Republic Politicians and their associates were detained and jailed on alleged ground of misappropriation of public funds. This contravened Article 5 of the African Charter on Human and People's Rights and the UN covenant on civil/political rights. The decree also barred associations and unions from carrying out their legitimate activities. Those who went contrary to the said decree mostly found themselves behind the bars. Students, activists and labour leaders had been victims of the heinous decrees. Recovery of public property (Special Military Tribunals) Decree No. 3 of 1984 put both the public and the private sector under serious pressure

whereupon special Military Tribunal Adjudicated on their term of reference and confiscated people's belongings or declared them in some cases as stolen property. Under this decree individual houses, lands, cars and companies were confiscated and auctioned at a give-away prices mostly to military men and their civilian associates. The decree was further complemented by Banking (Freezing of Accounts) Decree No. 6 of 1984. Public officers (Protection Against False Accusation) Decree No. 4 of 1984. The decree holds that false accusation on public office holder (referring to top government officials) either by written document or on radio shall not go without being punished. This decree had empowered government officials to recklessly misuse public funds without being accounted for and also barred citizens from carrying out legal proceedings against government officers who misuse their powers. Supremacy and Enforcement of power Decree No. 13 of 1984 provides that:

No court proceedings shall be in respect of any act or purported to be done pursuant to any decree and edict any such proceeding before or after the commencement of this decree shall abate and made void. Chapter 4 of the 1979 Constitution and any provision of the constitution relating thereto are hereby suspended (section 1 of Decree 13 of 1984).

The draconian decrees promulgated by the Buhari/Idiagbon regime exposes the regime's highhandedness and its resort to instruments of coercion. The increasing rate of unemployment, inflation, corruption, crimes couple with the suppressive tendencies of the Buhari/Ideagbon regime when there was a counter-coup in 1985 by General

Ibrahim Babangida it was a sigh of relief even though it was still a military come-back (Lewis 1996).

Ihonvbere and Vaughan (1995) observed that when the Babangida regime came to power it tried to distance itself from the repressive attitude of its predecessors by embracing more liberal policies, ranging from the reorganisation of the secret service, declaration of support for human rights, abrogation of repressive decrees (Decree No. 4 and Decree No.2 of 1984) to seeking of support of important community-based organisations. They further noted that this initial commitment to government by consensus and dialogue encouraged open nation-wide debates on major policies ranging from foreign policy, housing and relations with the IMF and other lending institutions. As a popular outlet for discussing the nation's future (Lewis 1996). Babangida then performed a deft policy turnabout. Invoking popular opinion, he publicly repudiated the IMF and announced that Nigeria would not accept conditional finance. Less than a month later, in the traditional New Year's budget speech the President unveiled an economic package including fiscal restraint, movement towards a more realistic exchange rate, trade liberalisation, the reduction of key subsidies, higher agricultural prices, financial liberalisation, and partial privatisation (Lewis 1996).

Juxtaposedly, corruption, repression and human rights abuses gradually replaced the regime's initial policy of dialogue (Ihonvbere and Vaughan 1995). This is

as a result of the acceptance of IMF requirement/conditionalities (we shall return to the detail of this in chapter 5).

In late 1985 when the Babangida junta fully accepted the loan conditionalities and started its implementation in 1986 with the introduction of Structural Adjustment Programme (SAP) it led to series of crisis in the country as many workers were led off and subsidies of major consumable items like petroleum were removed, inflation trippled, unemployment sky rocketed, crime increased at alarming rate, the political space became bleak as most politicians shrouded into their shells for fear of apprehension by security agencies. Robinson noted that such depress condition were responsible for some of the charges in African countries today especially those who experimented SAP. He write:

... there was a sudden upsurge in popular protest against incumbent regimes all over Africa with people taking to the streets to voice their opposition to government policies and their styles of leadership, students, trade unionist, the urban unemployed, dissident intellectuals and politicians combined force to demand the removal of unaccountable and repressive regimes which later crystallised into a call for multi-party democracy (Robinson. 1993).

Trade unions, students' organisations, professional associations and other organised groups opposed to structural adjustment have generally been smashed all over Africa or their organisational capacity severely weakened through constant official harassment, proscription, arrests, imprisonment and staged-managed divisions (Beckman; 1992, Olukoshi; 1996, Uvin; 1993). Cases of human rights violation in

Nigeria was glaring in the wake of the killing of Ahmadu Bello University Zaria (ABU) students in 1986, the killing of civilians and harassment of staff and students of University of Jos in April 1988 over students' protest against government price hike on petroleum products, the killing of University of Lagos students in 1988 in the wave of anti-SAP riot, the banning and unbanning of Academic Staff Union of Universities (ASUU), National Association of Nigerian Students (NANS) and Nigerian Labour Congress (NLC) by (Proscription and Prohibition from Participation in Trade Union Activities Decree 26 of 1988) (Today newspaper 7-13 June 1988: "UN Report on Human Rights in Nigeria"). Lewis (1996) Further observed that public restiveness over these conditions erupted again in mid 1989 when the 'SAP riot' engulfed universities and commercial districts in Nigeria's major cities which left many deaths.

Also the independence of the judiciary was undermined by the existence of ouster clauses, *inter alia* is the following decrees. The State Security (Detention of Persons) Decree No. 2 of 1984, which provides for the indefinite or incommunicado detention without charge of anyone deemed a threat to 'State security'. Under this decree just like in the previous regime many activists like Falana, Beko, Fawehimi and many media editors and executives were detained several times.

In 1990, 69 suspected coup plotters were executed (African Concord May 6 1991). The authority of the judiciary was impaired because court orders were disobeyed or implemented after considerable delay by the Federal Military Government. For example, eleven soldiers reportedly continue to be detained

incommunicado in Kirikiri prison in connection with an April 1990 alleged coup attempt despite a 23 July 1997 order of the Federal High Court in Lagos to release seven of them (Today newspaper 7-13 June 1998).

Another reign of terror was unleashed on Nigerians when pressure from within and without constrained the Babangida junta to open up the political space. The formation of the two government-sponsored political parties, Social Democratic Party (SDP) and National Republican Convention (NRC) after the dismissal of elected local government executives and legislative members in 1989 and the dissolution of the thirteen grassroots political associations and the subsequent banning and unbanning of old politicians as a result of fierce contestation over religion and ethnic loyalty. This summed the motive of President Babangida. He appeared more authoritarian and indeed more brutal as Ihonvbere and Vaughan put it:

to assumed a more corporatist, dictatorial and patrimonial style of governance than any previous administration (Ihonvbere and Vaughan 1995).

Subsequently, the eventual election of Chief Moshood Abiola in 1993 presidential election as the third Republic civilian president under the banner of SDP and the subsequent annulment of the election on 12 June 1993 by the Babangida junta was responsible for the terror unleashed on Nigerians who just recuperated from the "SAP plague". In Lagos and other major cities in Nigeria people from all walks of life pour out to the street protesting for the reverse of government decision on the annulment. Government security operatives were dragged into the scene of armless

protesters to shoot and kill "anyone" who is against government decision. In Lagos according to media report over two hundred people were fiercely shoot and kill. Decree No.2 of 1984 became more operative and effective as anti-government protesters were daily forced to the prisons. Students and human rights activists were being intimidated and harassed, labour union leaders were forced to rally workers in admittance of government decisions and policies. Throughout the crisis, the embattled dictator utilised the Federal Radio Corporation, the Kaduna newspaper, New Nigerian and its Lagos-based counterpart Daily Times, to discredit independent democratic organisations and their leaders (Ihonvbere and Vaughan 1995).

Ihonvbere and Vaughan (1995) further observed that Babangida's strategy of maintaining power was based on the manipulation of the entrenched ethnic, regional and religious consciousness in the country. Babangida compromised the nationalist posture that he had earlier projected for almost a decade and pursue authoritarian course in order to consolidate himself on power; although the pressure became too much to contend after the annulment of the 12 June 1993 Presidential election which apparently yielded a decisive victory for Chief M.K.O. Abiola a prominent Yoruba muslim business magnate (Lewis 1996). Under intense pressure to cede power Gen. Babangida resigned and handed over power to a 32 member Interim National Government (ING) headed by Chief Ernest Shonekan - August 27 1993 who was ill-equipped to handle the crisis. He had neither the political base nor control of the military (Thisday Newspaper Nov. 16, 1997). Lacking legitimacy throughout the

country, Shonekan's government was essentially ineffective. It was in the midst of this political quagmire that the military, under Gen. Sani Abacha seized the reins of power in a bloodless palace coup on November 17, 1993.

Upon taking over political power the Abacha junta took some quick and drastic measures against political leaders, union leaders and organisations. He suspended the "Transition Constitution" drafted in 1989 by the Babangida junta; he dismantled the two political parties (SDP and NRC) and sacked the elected political office holders in the three tiers of government. On June 23 1994 the acclaimed winner of 1993 presidential election Chief M.K.O. Abiola was arrested and charged for treason for declaring himself the legitimate President of Nigeria after his return from abroad (Lewis; 1996, Lewis et al 1998).

The euphoria that greeted the Abacha's intervention soon died down when it was realised that Abacha also have personal ambition to clive to power, especially when the latent iron fist of the Abacha's junta became manifest when on July 4 1994 the oil workers' union, the National Union of Petroleum and National Gas Employees (NUPENG), Petroleum and Natural Gas Senior Staff Association (PENGASSAN), the Nigerian Labour Congress (NLC) initiated a nation-wide strike to demand Abiola's release and recognition of the June 12 mandate which other pro-democracy groups like Campaign for Democracy (CD), National Association of Democratic Lawyers (NADL), disgruntled bank employees, pro-democracy academicians (most in university of Lagos and Ibadan), students, market women and taxi drivers also join in

solidarity protest which witnessed a massive violent clampdown by government (Lewis; 1996, Agbaje; 1997, Lewis et al 1998).

To properly strangulate the civil society the Abacha junta move swiftly to arrest union leaders, human rights activists, promulgate obnoxious decrees restraining the production and circulation of some Newspapers (we will revisit this again). The national Executive Secretary of oil workers Mr. Frank Kokori was arrested and detained in Lagos. The NLC President Pascal Bafyau was remove and replaced by a sole administrator. Also, human rights activists like Beko Ransome Kuti, Femi Falana Chima Ubani were arrested and detained. Three senior members of the National Democratic Coalition (NADECO), Alhaji Ganiyu Dawadu, Chief Ayo Adebajo and Abraham Adesanya (Today Newspaper May 7-13 1998) were all arrested under (State Security) Decree No 2 of 1984 and Federal Military Government (Supremacy and Enforce of Power) Decree No. 12 of 1994 prohibit legal challenges to any military decrees and also clause 5 of Decree 107 of 1993 outs the jurisdiction of the courts to intervene in such matters. The government also shuttered three independent media companies - The Guardian, National Concord and the Punch newspapers were incidentally victims of (Proscription and Prohibition from circulation) Decree No. 8 of 1994. (Lewis 1996, Abubakar 1998).

Furthermore, to assuage all pressures on the government in 1995 Abacha inaugurated a Constitutional Committee to debate the political future of the country and proffer solution to the prevalent political impasse. It was at this conference that

veteran politicians and human rights activists discovered the government plan to hold on to power. As Nigerians became skeptical about Abacha's government intention to handover power, the regime announced it has thwarted an attempted coup plot which some highly respected Nigerians like the retired Gen. Olusegun Obasanjo, the former head of state and Gen. Shehu Musa Yar Adua (retired) Obasanjo former chief of staff and other four hundred officers and civilians were accused. The arrest included those who were critical of the Abacha's regime - journalist and human rights activists, Chris Anyanwu (Publisher of TSM), Ben Charles Obi (editor of Weekend Classique), George Mba (assistant editor Tell magazine) and Kunle Ajibade (editor of The News) Beko Ransome Kuti (CD stalwart) and his associates (Newswatch April 29 1996).

Subsequently, harassment, intimidation a combination of centralised power, flagrant corruption, drug trafficking earn the nation a bad image in the international system (Mohammed 1999).

Nigerian trading partners - the US, Britain and other key actors responded to the Nigerian crisis by pleading for leniency for the alleged coup plotters which a secret tribunal handed down severe rulings including death sentence and life imprisonment. The government responded by commuting some of the sentence to life imprisonment like Gen. Obasanjo who was sentence to life imprisonment was commuted to 15 years, Yar' Adua death sentence was commuted to life imprisonment and host of others. Lewis et al (1998) were of the opinion that the absence of commendation from foreign governments of Abacha's effort for clemency partly provoke the junta to embark on

blunt action against another political dissident, Movement for the Survival of the Ogoni People (MOSOP).

4.3 THE Ogoni AND MINORITY RIGHTS IN NIGERIA

The weak basis for national unity in multi-ethnic societies encourages leaders to turn to coercion rather than to compromise (Welch, Jr., 1995)

On Nov. 10, 1995 amidst the political tension in the country the Abacha junta abruptly executed Ken Saro-Wiwa and his eight other Ogoni kinsmen of the Niger Delta region charged of involvement in militant activities through a discredited organisation.-Mosop which led to the death of four prominent pro-government Ogoni leaders and the distortion of economic activities of oil companies - Royal Dutch/Shell in the region (Welch Jr., 1995, Ihonvbere 1996, Lewis et al 1998).

The Ogoni lived in the richest part of Nigeria-Niger Delta where major oil exploration activities are being carried out. Nigeria's revenue base is derived from this area which the inhabitants ought to benefit from instead, as Welch Jr. (1995) put it the inhabitants suffer serious environmental degradation that has polluted fishing streams, drinking waters, poisoned land and atmosphere through oil spillage and gas flaring which have lasted for decades.

The Ogoni plight which attained prominence in the international fora started in 1991 by its leader Ken Saro-Wiwa through his novel (The people of the Niger Delta), writings (Ogoni Bills of rights, Ogoni's Plight), dramas and children's book which were obviously critical of military regimes and the neglect of the people of the Niger Delta.

In 1994 when it appeared that all hopes were lost of addressing the Ogoni problems the militant arm of the Ogoni youth resorted to arm violence to draw attention to their cause. The government responded by sending armed Mobile Police men to the region to restore peace however as many as 80 persons were reportedly killed as a result of indiscriminate shooting by Mobile police and nearly 500 homes were destroyed or badly damaged. Several Ogoni villages were sacked by the members of the Andoni community, Okrika and Ndoki in April 1994 (Welch Jr. 1995). The death toll was high even well below the 1,000 claimed by MOSOP. Some Nigerian troops enforced an uneasy peace, but others appear to have been ordered to capitalise on the ethnic tensions to settle scores against the Ogoni (Human Rights Watch/Africa March 1995). It was at this juncture that the Federal Military Government moved in with more armed military men to the region, arrested Saro Wiwa and his kinsmen set up a special judicial panel to tried them and execute them (Saro-Wiwa and his eight kinsmen) on the 10th November, 1995.

The sudden execution of the Ogoni nine after a flawed trial and virtually no judicial review provoked a wave of international denunciation Yakubu Bala Mohammed cogently put it in this way:

While the annulment of the June 12, 1993 Presidential election could be said to have heightened Nigeria's image crisis made it vulnerable to international criticisms, sanctions and condemnations; the Ogoni crisis brought the wrath of the international community on Nigeria (Mohammed 1999).

The execution of the Ogoni nine which occurred during the annual meeting of the Commonwealth Head of Governments summit (in Auckland New Zealand) and also during a period when the Security Council was debating peace keeping in Liberia it draws a wide range of criticisms and condemnations. Welch Jr (1995) captures the criticism in this manner:

... France (great alarm), Italy ('Shock and horror'), Germany (The Nigerian leadership has placed itself outside all humanity by carrying out this sentence'), South Africa (a 'heinous act') the United Kingdom (a fraudulent trial, a bad verdict, an unjust sentence... followed by judicial murder'). The United States (we particularly deplore this reported action taken despite the pleas of so many government'). The UN secretary-General was shocked and appalled', and the High Commissioner for Human Rights was 'deeply saddened' by the executions (Welch Jr., 1995).

The Commonwealth quickly voted for the two year suspension of Nigeria from the Organisation. The US tightened a ranged of restrictions on travel, aid and trade. The European union and Canada were also highly critical of the Abacha's regime and therefore placed sanction on it flight, military equipments, technical aid and stiffened bilateral relations by calling back their Ambassadors and High Commissioners for consultations and further action against Nigeria (Welch Jr., 1995 Lewis et al 1998).

At the domestic front, many pro-democracy groups, professional associations, academicians continued to stage protest over flagrant human rights abuses and a return to democracy. The government resorted to the use of decrees and brutal clampdown to subdue dissident voices, including a spate of arrests and several unexplained murders of noted political activists. Among the most prominent killings was that of

Kudirat Abiola, the wife of the late leader MKO Abiola who was shot along with her driver by a careful of armed men in June 1996 in an area of downtown Lagos saturated with army checkpoints. Attacks on senior NADECO leaders also had a chilling effect on opposition activity (Lewis et al 1998). It was within this circumstances that in 1997 the government said it has uncovered another coup plot. Arrests were made of 31 officers including the junta second in command, General Oladipo Diya and some prominent military Generals all of whom were from the Western part of the country. Commentators on the alleged coup plot have this to say:

The authenticity of the alleged conspiracy was in considerable doubt, and critics charged that Abacha had inflated or contrived the incident as a pretext to remove further challenges to his authority (H. French cited in Lewis et al 1998).

Consequently, the self-succession plan accompanied by brutal clampdown of oppositions, critics and minority groups has raised a serious question of peoples' rights in Nigeria and Africa as a whole (we will turn to this in detail in chapter 5).

4.4 CIVIL SOCIETY ADVOCACY FOR CIVIL LIBERTIES

The advocacy for civil liberties in Nigeria is traceable to the nationalist struggle against colonial oppression-demanding for better condition of service and representation at the colonial office in Lagos and Calabar (Agbaje 1997, Ibeanu 1999). After independence advocacy for civil liberties became a latent force as most of those campaigning for civil liberties became deeply involved in government. The utmost concern in this part

of the work is to examine the resurgence of civil society, their classification, advocacy and successes.

The political impact of globalisation was the spread of liberal democracy to countries in Eastern Europe which led to increase debate on civil liberties and a subsequent change in the political landscape in the erstwhile Soviet Union. The growth in the political clout of human rights organisations based in the West (especially the US) and their increased ability to influence the policies of their governments towards authoritative/despotic regimes in the Third World also contributed to the changing international political climate and the increased global interest in matters of human and democratic rights. Also, globalisation has increased debate and media coverage of human rights in many areas thereby creating awareness in specific areas of human rights violation like Nigeria. And, lastly, the political turmoil that gripped Eastern and central Europe as well as the erstwhile Soviet Union from the end of 1988 which resulted in the overthrow of many socialist governments and the introduction of multiparty politics helped to further heighten international consciousness about issues of democracy, human rights and civil liberties (Olukoshi 1998b).

The events that occurred in different parts of the world in respect to civil liberties has helped, to increase awareness for civil liberties in Nigeria. Moreover, the deepening economic crisis and the increasingly systematic attacks on human and democratic rights by the state, under IMF/World Bank pressure, intent on

implementing SAP against popular wishes of the people led to increase advocacy for civil liberties in the country (Olukoshi 1998b).

The first civil liberties association to be established in Nigeria was set up in 1986 by a group of lawyers; known as the Civil Liberties Organisation (CLO), its immediate impact on the Nigerian political landscape inspired the formation of a host of other groups (Ihonvbere 1996, Olukoshi 1998b). These organisations have been actively involved in protesting abuses by government, chronicling violations, disseminating information, and adopting the cases of those persecuted (Lewis et al 1998). Since most of them aid at achieving almost the same goal-human and democratic rights we will classify them and enumerate some prominent among them.

Prominent Human Rights Groups in Nigeria

	Classification	Name
1.	Human rights and democracy organisations	<ul style="list-style-type: none"> • Campaign for Democracy (CD)
		<ul style="list-style-type: none"> • National Democratic Coalition (NADECO)
		<ul style="list-style-type: none"> • Community Action for Popular participation (CAPP)
		<ul style="list-style-type: none"> • Joint Action Committee of Nigeria (JASCON)
		<ul style="list-style-type: none"> • Civil Liberties Organisation (CLO)
		<ul style="list-style-type: none"> • Constitutional Rights Project (CRP)
		<ul style="list-style-type: none"> • Committee for the Defence of Human Rights (CDHR)
2.	Popular/Professional Associations	<ul style="list-style-type: none"> • Nigerian labour Congress (NLC)
		<ul style="list-style-type: none"> • National Union of Petroleum and National Gas Employees (NUPENG)
		<ul style="list-style-type: none"> • Petroleum and Natural Gas senior staff Association (PENGASSAN)
		<ul style="list-style-type: none"> • National Council of Women Societies (NCWS)
		<ul style="list-style-type: none"> • Academic Staff Union of Universities (ASUU)
		<ul style="list-style-type: none"> • Non-Academic Staff Union of Universities (NASU)
		<ul style="list-style-type: none"> • National Association of Nigerian Students (NANS)
		<ul style="list-style-type: none"> • Nigerian Medical Association (NMA)
		<ul style="list-style-type: none"> • Nigerian Bar Association (NBA)
		<ul style="list-style-type: none"> • Nigerian Union of Journalist (NUJ)
3.	Conflict Resolution Groups	<ul style="list-style-type: none"> • Christian Association of Nigerian (CAN)
		<ul style="list-style-type: none"> • Federation of Muslim Women's Associations of Nigeria (FMWAN)

What is more unique and interesting about these groups is that their campaign is overwhelmingly concentrated against the state. This is because in the Third World the state is still looked upon as responsible for welfare provisioning and amenable to the protection of life and property. The inability of the state to perform these functions leaves much to be desired. The advocacy for civil liberties in Nigeria sprung from the repressive nature of the state. It is being argued that the state cannot live up to its responsibilities if it does not account to its citizens and also respect their human and democratic rights.

The advocacy for civil liberties in Nigeria cut-across the respect of fundamental rights, the right to life, right to movement, freedom of expression, freedom of association, respect of rule of law and right to choose a government which will be accountable to the citizens. To sustain the advocacy for civil liberties, the civil society engages the state in the war of nerves while the state uses naked force to coerce and defend its inaction. Civil liberties advocacy include active campaigns against the use of military/special tribunals to circumvent regular judicial institutions, campaign against government's subsidy withdrawal policies, campaign for the repeals of obnoxious decrees against human rights, campaign against government use of force on civil society, campaign for accountability and transparency and campaign for political pluralism.

It is pertinent to note that the advocacy for civil liberties have at best changed the political landscape as it compelled the government to reverse highly discredited

Decree No. 2 which State officials employed with reckless abandon to silence the most vociferous critics of the government. Also, the amendment removed the powers conferred on the inspector - general of Police and the minister of Internal Affairs to detain persons under the person competent to so act (Olukoshi 1998b).

Consequently, civil liberties advocacy have succeeded in raising general awareness in the country, the question of right to self-determination. (we shall revisit that in our next chapter 5).

- The advocacy have succeeded in bringing to the notice of government the congestion and dilapidated facilities in the Nigerian prisons;
- It has also compelled government's law officers to exercise their power of *nolle prosequi* judiciously and only in clear cases involving the protection of the public as opposed to private interest; and
- It has also succeeded in compelling the government to speed up its transition programme to democracy.

However, these organisations have suffered serious criticisms from the general public. Husseina Abdallah Feminist advocates, in our interview with her (*Field work 1999e*) on the assessment of human rights groups in Nigeria maintained that they are short sighted. This is because women are not represented in most of these organisations and secondly they lack consistency and their political constituency is not broadly base. Violence against women in the rural areas are not condemned by these so-called human rights groups. And most of them (human rights groups) are less

concern with human rights violation in the rural areas this is because they are elitist and urban based and are funded by foreign governments. The emphasis on political pluralism by these human rights groups is firmly rooted in Western liberal ideology which the human rights groups are persuaded to pursue in order to create an atmosphere of stability for the promotion of capitalism. In fact, their struggle does not address the current issues which are of great concern to the masses: the redistribution of the means of production; the protection of rural agrarian land for alienation and local/resources from expropriation; the right to work; the lifting of the heavy burden of numerous taxes and levies off the shoulders of the common people; the organisation of the rural people to defend their rights and to meet their immediate needs; the full participation of the people in the local political process (Asobie, 1997, Gani Fawehimi *Fieldwork 2000b*). In a nutshell, Asobie further observed that why the human rights groups failed to direct their actions towards ameliorating the suffering of the masses is because, their economic resources are poor; their social foundations are shallow: their political bases are thin; in short, they lack clear ideological direction, they make a pretence to ideological neutrality.

CHAPTER FIVE

5.0 A CRITICAL EVALUATION OF THE HUMAN RIGHTS QUESTION IN NIGERIA

INTRODUCTION:

... the average African is worse of today than she was 30 years ago. Economic stagnation, the fiscal crisis of the state and intensifying poverty have caused the collapse of social and physical infrastructure and created a great deal of stress as well as a proliferation of violent conflicts, chronic malnutrition for many, and death by starvation for some (Ake 1994)

M'Baye (1982) in his writing made a comment that is pertinent to this chapter. According to him, the human rights philosophy rooted in the natural rights paradigm with emphasis on civil/political right is inadequate to explain the other side of human rights - the right to development. The indictment led to the unequivocal shift of the human rights debate position which was hitherto more concerned with the political prospects to now include the right to development. It was indeed a revolution in the human rights debate stirred by the African charter on Human and Peoples' Rights. A debate that traced the root cause of African impoverishment and conflicts to what Ake (1994) calls the disempowerment of the peasants and masses as a result of institutional and infrastructural decay. In Nigeria for example, the nascent debate on human rights is a shift away from the orthodoxy of Western liberal advocacy to a question of economic, social and cultural rights. Ake (1994) writes that as long as 80 percent of the African

population lives in the rural areas civil/political rights might not make meaning to them as long as their material condition is still dysfunctional.

The objective of this chapter is to make a critical evaluation of the human rights question in Nigeria bringing to the fore more burning issues like the rights to self-determination and right to sustainable development.

5.1 THE RIGHT TO SELF-DETERMINATION

The rights to self-determination has two dimensions; the internal and external dimensions. Before we proceed with the discourse we would like to differentiate them for clarity of usage. We will focus attention on the internal dimension. The internal dimension of rights to self-determination connotes a struggle for inclusion and participation in economic and political processes. As Asobie (1997) writes:

The right includes: the right of all peoples to determine democratically their own socio-economic and political system of governance and government; the right of all peoples, nations, nationalities, national groups and minorities to freely pursue and develop their culture, traditions, religion and language.

Indeed, we can see that the right to self-determination is itself increasingly being seen as an entitlement to democracy and not necessarily involving a right to secession which the external dimension of right to self-determination represents.

According to Article I of the two major International Covenants "All peoples have the right of self-determination. By virtue of that right they freely

determine their political status and freely pursue their economic, social and cultural development” (1966 Covenants on political/civil rights and Economic social and cultural rights).

The external dimensions of rights to self-determination in Nigeria was the case of the Biafran struggle in Eastern Nigeria in the 1960s whereby among other reasons the major ethnic groups (Igbos) of that region contended that their rights were not guaranteed in the federal arrangement and therefore a need to have a separate state of their own. This subsequently led to the 30 months old civil war in Nigeria. Another recent attempt of rights to self-determination by secession was the Ogoni Bill of Rights issued to the Federal Government demanding an independent state of the Ogoni (Welch Jr., 1995, Asobie 1997). These struggles are relevant in understanding the internal dimension of the right to self-determination. When a group of nation(s) feel alienated and oppressed and not satisfied with the political and economic arrangement which prohibit freedom of expression, freedom of association, freedom of movement and participation which are the best channels of expression the only alternative is to opt for secession just like the cases we highlighted above.

The right to self-determination which we are concerned with in this discussion is economic, social and cultural rights which lead to violation of civil/political rights. Liu Huaqiu, head of the Chinese delegation to the Vienna World Conference on Human Rights of 1993 writes thus:

For the vast number of developing countries to respect and protect human rights is first and foremost to ensure the full realization of the rights to subsistence and development. The argument that human rights is the precondition for development is unfounded. When poverty and lack of adequate food and clothing are common place and people's basic needs are not guaranteed, priority should be given to economic development otherwise, human rights are completely out of the question (cited in Mullerson 1997)

Ake (1994) also noted that these notions of freedom, well-being and democratic participation (referring to Western liberal democracy) are, for all their appeal, hardly appropriate for people in rural including urban poor in Africa. For in that setting, freedom is embedded in the realities of communal life; people worry less about their rights and how to secure them than finding their station and its duties and they see no freedom in mere individualism. Their sense of freedom is not framed by tensions between the individual and the collectivity. Nor is it defined in terms of autonomy or opposition but rather in terms of co-operation and in the embeddedness of the individual in an organic whole, it should be noted that this advocacy is what we earlier (in chapter 2) stated as the concept of human rights in Africa. By all indication we can deduct that Ake advocate for social democracy which goes beyond abstract political rights and takes concrete economic and social rights seriously. This he says will be a democracy of empowerment which will invests heavily in the upliftment of ordinary people so that they can participate effectively in governance and be more competitive in promoting their material interest (Ake 1994).

It is germane to note that Ake (1994) has been critical of liberal democracy because, to him formal access to democratic participation does not emancipate people in Africa rather as he contends, it disempower them. He further maintained that ... freedom of speech is not very meaningful to the toiling peasant; her access to it is hardly significant for her. Nor does the right to run for office or to vote help very much given her total absorption in the daily struggle for survival. Access to equality before the law and due process does not help much either because the judicial system is usually corrupt, prohibitively expensive, utterly intimidating and totally "alien" to the local culture. Access will only be meaningful and relevant if it entails the removal of these disabilities (Ake 1994).

The vision for socialist democracy conceived by Ake (1994) for Africa is an illusion when the indices of authoritarianism is been considered. Within the span of the shortlived Shagari regime, human rights practice was a negation of economic, social and cultural rights (*Moses Agbabo field work 2000c*). This is attributed to the huge amount of debt the regime inherited coupled with mismanagement and corruption (Lewis 1996). Workers were massively retrenched, unemployment and corruption were monsters that stared the government on the face - this was further exacerbated by civil disturbances around the country side. For example, there were 'Maitasine' riot in major cities like Kano, Gongola (now Adamawa), Bauchi and Kaduna, there were also civil protest in Lagos, Ondo and Ibadan as a result of retrenchment of workers, there was an

increasing number in crime rate in highways and cities, Benin, Onitsha, Lagos and Ibadan roads, these were said to be motivated by discontentment and hunger (my observation). To prevent and assuage these reactions, political repression was employed. This shows that there is a high degree of interdependency between economic, social/cultural rights and civil political rights. The denial of social and economic rights may be a serious cause of social unrest (*Aliyu .S, Fieldwork 2000d*).

Furthermore, the increasing interest for self-determination is caused by the spread of free-market economy as earlier highlighted in chapter 3.

The 1980s global economic recession manifested itself not only in terms of rapid declining output and productivity in the industrial and agricultural sectors but also in terms of worsening payments and budget deficits, acute shortages of inputs and soaring inflation, growing domestic debt and a major problem of external debt management, decaying infrastructure, a massive flight of capital and declining per capita real income, among others. The military seized the reins of power to reverse the trend thereby yielding to donor agencies conditionalities for reform which the stages for implementation were brutal. At the same time they sought to denationalise the economy themselves by imposing various forms of deregulation, liberalisation and privatisation, indeed the dismantling of the public sector; left the urban and rural poor in a critical condition that they were tempted to fight for their right to self-determination.

Lewis (1996) holds the view that the restructuring process accompanied by repression is a diversionary tactics for predatory prebendalism which sought to promote economic and social inequality. Corruption raged heavily in the country, most government officers demand for 10 percent kick-backs for contracts awarded. Smuggling and drug trafficking became an official deal in which state officials were deeply involved. Petroleum smuggling was largely the province of senior military officers and a few civilian associates. Top government officials sometimes arranged legal lifting of oil contracts for companies in which they had an interest, but more typically they simply chartered tankers and covertly filled them at terminals of the National Petroleum corporation (Lewis 1996). Domestically and internationally, Gen. Babangida and Gen. Abacha juntas were known for plugging the nation's resources for personal aggrandisement. Although there has not been accurate statistical data to illustrate the amount of money stolen by these regimes in collaboration with their foreign compradors, it is however been on air and shelves of academicians that these regimes were the most brutal and corrupt regime Nigeria ever had, they impoverished and pauperised the professionals, the unemployed, students, workers, the rural and urban poors (Ihonvbere and Vaughan 1996; Lewis 1996; Agbaje, 1997).

Extreme poverty leads to an exclusion of affected persons to participate in politics and to fully realise their civil/political rights. Following the difficult economic condition created by SAP the enthusiasm to participate in politics was

completely eroded, people were exposed to the stark reality of making ends meet. Ake (1994) opined that of what benefit is the right to vote, to someone who cannot provide himself with the basic necessities of life? This is futile. Ake maintained that apart from being a veritable pawn in a game of power, the peasants and the masses are less significant to those who seek for power. The poor have been excluded from politics due to their material based. This has been the major source of country side violence. For example some major crises like Zangon Kataf (1992) Tiv-Jukun (1992) Kafanchan (1992) Ogoni (1994) among others that occurred in the country among other reasons often advanced, exclusion and alienation ranked highest.

Nevertheless, the instabilities recorded both in the rural and urban areas is attributable to poverty which emerged as a result of inadequate distribution of the nations resources or the circulation of it within few hands due to corrupt practices. In fact, the communal pressures that have characterised many parts of Nigeria were not only matters of ethnic self-determination but also complex expression of economic and political disparities.

Another reason often neglected in the human rights discourse which also concerns the right to self-determination is the autocratic and exploitative tendencies of our traditional rulers both in the rural and urban centres. Heavy taxes were often levied on individual(s) household which often than not alienate and increase the burden of the masses. Lands of peasant farmers in most cases are

privileges of traditional rulers. This social and economic violation of rights also leads to the struggle for right to self-determination and in some cases crisis.

Consequently, the step up pace of globalisation which increasingly reduces the complex scope of the world to a small unit called “global village” facilitated by information technology has immensely created new consciousness of human rights vis-a-vis the right to self-determination by minority groups in Nigeria.

5.2 THE RIGHT TO DEVELOPMENT

The Post-Cold War human rights focus has shifted from the traditional emphasis on political/civil rights to include economic, social and cultural rights and recently rights to development/environment in the international human rights debate.

Like the right to self-determination, the advocacy for right to development by countries of the South (developing nations) for New International Economic Order (NIEO) in the General Assembly and the increasing advocacy for right to development by the African Charter on Human and Peoples’ Rights suggests that foreign interference in the economies of the Third World countries has been too much of a threat to the economic survival and the sovereign authority of peripheral states.

Similarly, the intense competition in the World Trade Organisation (WTO) which Nigeria is a member exposes the economy to an easy prey to exploit and marginalise since trade liberalisation can only be favourable if an economy can

withstand serious competition from outside. The advantage of this lies in technology breakthrough which a nation like Nigeria cannot boast of because of its dependant status. The inability to compete with stronger economies (industrialised economies) can create disparity in the global economic integration advocated by the West.

The Structural Adjustment Programme (SAP) which was hitherto thought as a way out had a stringent prescription such as currency devaluation, deregulation, of prices and wages, reduction of public spending on social programmes (like health, education and water) and state bureaucracies, removal of food and other subsidise on basic necessities, trade liberalisation, privatisation of parastatal enterprises, the expansion of the export sector and the retrenchment of workers. This further raised a question of the right to development since liberalisation of the economy and the opening up of the political space is meant to stimulate and attract foreign investors into the country which the government have little control over their activities due to their wide range of networks. The state has been losing a huge amount of revenue to foreign investors which might have been used for other developmental purposes or ameliorate the conditions of the masses.

Nevertheless, all these combine to raise a serious question on the right to development. Nigeria with its dependent capitalist economy is alienated and marginalised in the global economic transition, a call to look in-ward is increasingly gaining momentum as multilateral financial institutions intervention

in the economy increases authoritarianism and pauperisation of the masses and the peasants.

Consequently, the rights to self-determination and development is a fundamental rights that all human being are endowed with irrespective of their sex, creed and religion and therefore they must strive to achieve while states should be responsible for its protection and promotion.

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CHAPTER SIX

6.1 SUMMARY

The study is divided into six (6) chapters. Chapter one encompasses the background to the study, statement of the research problem, aims and objectives of the study, the significance of the study, review of related literatures, the research questions, methodology, and theoretical framework.

Chapter two deals with the concept of human rights in international relations. The chapter basically concentrated on the genesis of human rights and show its different conceptions world wide. Chapter three specifically covers the issue of human rights and international relations. It assesses the politics of human rights during the Cold War and the post-Cold War era.

Chapter four analyses human rights situation in Nigeria, with particular focus on its practice and enforcement. Chapter five is an evaluation of the problems observed in chapter four, the chapter critically discusses the human rights question in Nigeria by drawing references from the new human rights demands that arises. Chapter six sums up the work with summary, conclusion and recommendations.

6.2 CONCLUSION

We have highlighted Western concern with human rights and the state of human rights in Nigeria. We are not also oblivious of the fact that human rights has attained some high degree of acceptability in the international system inspite of identification of historical specificity and different levels of development as

major areas of disagreement. Nations have apparently come to agreement that human rights are not about abstract texts but about people, what they and their neighbours are legally free to do, and what obligations fall on government for guaranteeing those freedoms. In short, human rights is about the total being of a person. The interpretation of it may vary from country to country but the basic text remains the same.

Following this, several discourse on human rights indicates that human rights violation in the Third World countries and the phenomenal collapse of the Soviet Union was what informed Western human rights diplomacy. Some schools of thought reject this contention and proceed to argue that the probable reasons might be influenced by the pursuit of national interest. In short, human rights is used in disguise to perpetuate other motives. This is so in the sense that, in addition to the value system Western human rights diplomacy intends to spread, it also intends to create an enabling environment for its market. The Western human rights concern in the Third world is therefore self-centred as far as it is ill-conceived.

Western human rights agenda is limited in scope. It merely provides opportunity for the teeming poor in Nigeria. It is therefore not a panacea to poverty, hunger and diseases that the overwhelming population of Nigeria is going through. We have come to grapple with the reality of human rights in Nigeria that human rights transcended the boundary of political/civil rights, although these are

equally important, however, the present circumstances have dictated that their conception is fashioned after a Western model that speaks less of the hard facts on ground in the country. Political/Civil rights in Nigeria should dovetail economic, social and cultural rights. This will reduce increased pressure for development; as human rights and development are closely linked. Development will give priority to health, education and productivity of the people that will enhance their self-esteem and make them more competitive and also reduce their strife for abstract rights, which stand as a major conception of human rights in the West.

6.3 RECOMMENDATIONS

The nascent human rights discourse is a start of history. Before this time, the world had witnessed various forms of socio-economic and political systems (Socialism, Communalism, capitalism, Nazism and Fascism); that their strength went with the passage of time impresses on humanity that the world is dynamic. From the foregoing, we have discovered that human rights issue is now the central theme of all humanity, its advocacy cuts across culture and religion; although its practices and pursuit in international relations is still a subject of contention and debate among scholars, human rights groups and policy makers. During the research, the researcher has recognised that the Western countries concern with human rights is hypocritical, biased and full of realpolitik. And secondly, we have also found out that human rights practice in Nigeria was to some large extent in a deplorable state and as a result it gave impetus to new human rights demands -right

to development, environment, security, food/shelters; and women rights. On this note, therefore, the research makes the following recommendations:

1. Nigerian policy makers should endeavour to understand the direction of Western human rights advocacy and learn to study carefully the conditions of donor agencies before contracting with them. In fact, what Nigeria needs is not “good governance defined in narrow technocratic, functionalist terms that are meant to further the goals of an adjustment model but a system of democratic governance that evolves from the culture of our people in which political actors have the space to freely and openly debate, negotiate and design an economic reform package that is integral to the construction of new social contract;
2. Nigeria should recognize that as the world changes, certain elements and actors also follow suit and these actors pursue their national interest through identifiable goals not minding whose ox is goared as long as the target objective will be achieved with a minimal resources. This therefore implies that Nigeria should develop a concrete policy for human rights diplomacy as part of her foreign policy objectives;
3. Developing nations particularly Africa should condemn the Western human rights advocacy since it is meant to spread western liberal values and promote western economic interest at the expense of Africa’s development;

4. Emphasis should be placed on the African Charter on Human and People's Rights since that seems to be more practicable in terms of understanding the nature of human rights violation in Nigeria. Human rights situation in Nigeria can be significantly improved only as a part of a larger societal-change including the eradication of poverty and the management of inter-ethnic relations. Based on the findings of this study, we have realised that close to 80 percent of Nigeria live below poverty level and this is responsible for most of the frequent urban and rural uprising and communal clashes in the country;
5. With the restoration of democracy in Nigeria the human rights groups and the NGOs should channel their campaigns to the rural areas where human rights violation is still at alarming rate. Human rights education should be initiated. The human rights groups and NGOs should struggle to see that human rights education is included in the Nigerian educational curriculum at both Post primary and tertiary levels. The Human rights groups and NGOs should organise some form of adult-literacy classes to educate those who cannot read and write about their fundamental human rights;
6. The 1999 Constitution Review Committee should realise that military rule is antithetical to human rights therefore, military regime should not only be considered as an aberration, but also regarded as a criminal act punishable by life imprisonment. In this respect, therefore, a section of the constitution

should categorically denounce any unconstitutional change of government and;

7. Finally, several issues and areas have been opened up by this work which hitherto were either under researched or very often unresearched. This calls for more theorisation especially the polemics for self-determination which has exacerbated the conflict of rights in Africa. To this end, we encourage that further research should be directed towards this area.

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RESPONDENTS OF FIELD WORK INTERVIEW CONDUCTED

1. Fieldwork 1999a - was derived from Mahmoud A.B. (Legal Luminary) in Kano During a Research Training Workshop Organised by Centre for Research and Documentation (CRD) Kano
2. Fieldwork 1999b - was derived from Abdul Rauf Mustapha (Scholar) at CRD Kano.
3. Fieldwork 2000a - was derived from Jubril B. Moh'd (Scholar) Department of Mass Communication, University of Maiduguri.
4. Fieldwork 1999c - was derived from Abdul Rauf Mustapha (Scholar) at CRD Kano.
5. Fieldwork 1999e - was derived from Husseina Abdallah (Feminist Activist) at CRD Kano.
6. Fieldwork 2000b - was derived from Gani Fawehinmi (human rights activist) on 'Point Blank' NTA Programme.
7. Fieldwork 2000c - was derived from Moses Agbabo (Human Rights Activist) co-ordinator North-central Constitutional Rights Project. An interview conducted in his Kaduna office.
8. Fieldwork 2000d - was derived from Barister Aliyu .S (Human Rights Activist) co-ordinator North-East Civil Liberties Organisation. An interview conducted in his Maiduguri office.
9. Fieldwork 1999f - was derived from Attahiru Jega (Former Asuu Chairman) at CRD Kano.
10. Fieldwork 2000e - was derived from Musa Umar (Research Fellow) National Policy and Strategic Studies (NIPSS) Kuru, Jos.

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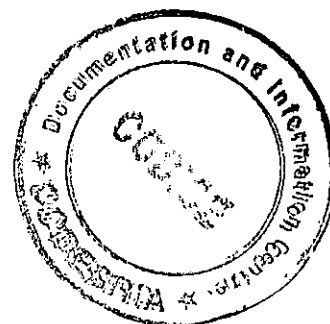
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