

Rights of Fair Trial and the Human Person in Nigeria's Political System: a Legal-Politico Perspective

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Abstract: *This work examines the contentious issue of fair trial rights of the human person in Nigeria, against the backdrop of political acts of selectivity embedded in the authoritarian and totalitarian political rule in Nigeria. The paper sets out with the assumption that fair trial being a part of the global concern, declared as inalienable under the Universal Declaration of Human Rights 1948, is a necessary condition for a stable and just society. Regrettably however, the paper found that the authoritarian and totalitarian political rule in Nigeria blatantly derogates the provisions of fair trial in the process of exerting political control by the political leaders in the country. This blatant derogation manifests in several ways including the manipulation of judicial processes, particularly against trials involving persons that are not covered by the state power. The paper which is essentially descriptive, suggests that the judiciary should remain apolitical, steadfast and neutral in all cases or trials before the courts, and that the Attorney Generals of the federal and state governments, being law officers, should ensure that persons under trial are treated without partisan considerations and government should allow judicial independence in accordance with the purpose of the state. Finally, and by way of conclusion this work suggests that there is need for Nigeria to intellectually craft a democratic political system which should have a focus on human rights, since totalitarian and authoritarian political systems currently the vogue, are antithetical to the rights of the human persons.*

Key words: *Fair Trial, Human Rights, Human Person, Nigeria, and Political System.*

I. Introduction

The quest by the 'first modern states' to initiate global responses to the incessant violation of human rights, in the face of polemics of human rights violations by individuals, institutions and governments, set in motion the rules and principles to regulate relations between people and people, people and institutions, and between institutions and institutions. Thus in 1948, the United Nations' General Assembly adopted the Universal Declaration of Human Rights (UDHR) which officially stated that all human beings have the same fundamental rights, irrespective of race, colour, sex, language, religion, political affiliations, birth or other social characteristics. It was indeed a reaction to the challenges of human dignity conditions worldwide. At that time, there were just four independent African states who were members of the United Nations: Egypt, Ethiopia, South Africa and Liberia while others including Nigeria were under colonial rule. Countries such as Egypt, Ethiopia and Liberia voted in favour of adopting the UDHR, while South Africa abstained for obvious reasons of being under imperial control (Ekpebu, 2000: 186).

Today, there are about 53 member states of the United Nations in Africa including Nigeria, that have signed and ratified many of the core United Nations human rights treaties, including the one involving fair trial. These treaties and other international instruments allow every human person to claim his or her human rights (<http://www.claiminghumanrights.org/>). The rights to fair trial have been incorporated in the African regional human rights system. The African Human Rights System recognizes the phenomenon of Human and Peoples' Rights and is clear on the rights to fair trial but its application in Nigeria has been most of the time infracted, thus raising doubt of the Nigerian State's sensitivity to fair trial principles enshrined in Africa's human rights system. Indeed to a large extent, many Nigerians see human rights protection and fair trial as a paper tiger and mere rhetoric designed to attract social credit, even when the underlying intention is not the promotion of corporate political good. (Nsirimovu cited in Umozurike, 1997: 4-5).

The right to fair trial otherwise referred to as 'fair administration of justice', is one of the cornerstones of a democratic society which invariably involves abiding by the 'rule of law'. It is a norm of international human rights law designed to protect individuals from the unlawful and arbitrary curtailment or deprivation of other basic rights associated with the liberty of the human person. In Nigeria, the quest to retain political power and control has made the authoritarian and the totalitarian political systems the over-riding principles of governance. This has made democratic ethics unachievable, and this by implication negatively affects fair trial ideals, coupled with weak laws of state regulation. Hence it is extremely difficult under such a situation to protect the human person under the prevailing political order. This failure characterizes the views people hold in Nigeria that western judicial system has failed in the country, without taking cognizance of the role of the

political systems in the governance of the country. For instance, the trial of former office holders over corruption show sufficiently that the government of the Nigerian state at this time, and its agencies like the Police and the Economic and Financial Crimes Commission (EFCC) are finding their way to escape the processes of fair trial by the disobedience of court decisions.

This is against the fact that for fair trial to be realistic, the government must play a significant role to ensure that it brings to justice those responsible for court violations and the violations of other peoples' rights. This is why the right to fair trial tests the State's commitment to respecting the human person because trials aim at rendering justice, but when people are subjected to unfair trials the cause of justice cannot be fulfilled and the state eventually would lose the emotional attachment of the people. For instance when suspects are ill-treated by law enforcement officials, when innocent individuals are convicted, or when trials are manifestly unfair or are perceived to be unfair, the justice system loses credibility. This means that the right to fair trial is a basic necessity in modern state. It is along this tune of thought that this work examines fair trial and its abuses by the state power in Nigeria. The paper sets out with the assumption that fair trial is a key variable of a just and stable society imbued in the rule of law. The paper is descriptive and organized in four segments comprising of the introduction, conceptual background for the clarification of the concepts used in the work, followed by the analysis of the "human person and fair trial in Nigeria" as the body of the work, and lastly, is the conclusion of the discourse.

II. Conceptual Background

The title of this work imposes a responsibility of intellectual prologue or interrogation of the major concepts used in this work, so that readers would understand how they are applied in the work. The concepts are human rights, fair trial, human person and political system.

Human Rights: The concept of human rights is a very important one in the global world today. This is because it refers to inalienable rights that are promoted as a global project for fair treatment of humans. Human rights take both legal and moral connotations. The legal connotation is clearly stated in international, regional and state legal systems, while the moral connotations are recognized in the various customs and traditions of many societies of the world, especially where there are no written constitutions. Moral rights are sometimes referred to as ideal rights. The human rights concept has always be viewed as having certain relationship with claims which people make against one another and these claims make it obligatory for others to respect the claims of the right-holders.

In view of the relevance of these rights to humans, various African scholars have defined the concept in terms of its significance to good social life in Africa. For instance Ake (1987: 5) drew attention to the fact that the idea of human rights is quite simple. According to him, human beings have certain rights simply by virtue of being human, and these rights are necessary conditions for the good life. In view of their singular importance, according to him, individuals are entitled to, indeed, required to claim them and society is enjoined to allow them, otherwise the quality of social relationship would be seriously compromised.

If one weighs the extreme individualism or liberalism with regard to human rights characterization in the west and its collectivism in the African idealist thought, one would not be surprised at the disparity of its promotion in the west and in states of Africa, because of philosophical differentials. This is why Ake states that: *The values implicit in human rights are clearly alien to those of our traditional societies. We put less emphasis on the individual and more on the collectivity. We do not allow the individual to have any claims which may override that of the society. We assume harmony, not divergence of interests, competition and conflict; we are more inclined to think of our obligations to other members of our society rather than our claims against them* (Ake, 1987: 5).

It is however important to stress that the value of classical liberalism which the west support and neoclassical liberalism which appears to tilt in favour of African idea on human rights, particularly on government intervention that is the mainstay of universal rights promotion. For the classical liberals, human rights generally include the right to private property and the right to defend oneself, to seek knowledge, to propagate it, and to hold and express one's own opinion. For them government intervention in protecting private property is unnecessary. While the neoliberals are in tune with these fundamental rights, but they are also of the view that government intervention in protecting these rights, especially private property is necessary. Although government intervention is almost not a debate-able issue in modern state system having incorporated government responsibility in the international bill of rights, the question however that this work is bringing forth for discussion is about the propriety of government intervention on human rights protection with regard to fair trial.

Apart from the theoretical expositions on the meaning and protection of human rights, the Third World view and other conceptions about human rights are equally important in having a comprehensive idea. Some Third World analysts contend that human rights should be expanded to include the right to self-liberation against foreign rule,

exploitation, violence or hegemony while also among the revolutionaries, human rights should include the right to rebel against exploitation or domination and to take up arms in such a rebellion (Toyo, 1998: 10-11).

In his own contribution, Madunagu (2006: 539-540) posits that human rights are rights acquired over time through strife and struggle: struggles against the exploitations of some segments of humanity by other segments or the impositions of some sections of humanity on other sections. He further stated that human rights are not static and equal in any society but have national boundaries and that they are historically determined. Indeed for him, human rights are defined as "claims made by men, for themselves or on behalf of other men, supported by some theory which concentrates on the humanity of man as human being, and as member of humankind" For Coker and Obo (2012: 62-73) human rights represent demands or claims which individuals or groups make on society, some of which are protected by law, while others remain aspirations to be attained in the future. Human rights in this form stand above the ordinary laws of the land and which in fact determine the sameness of the political society itself. This means they constitute a primary condition to a civilized existence.

What the Nigerian constitutions since independence have tried to do is to have these rights enshrined in the constitution so that the rights could be immutable (Kayode, 1994). This is why some fundamental human rights norms enjoy universal protection by customary international law across all boundaries and civilizations (Don, H. et al, 2001: 144-155). Human rights, irrespective of their ideological foundation, challenge the inhuman treatment given to humans the world over, including fair trial on which this work is focused.

Fair Trial: The right to fair trial is a norm of international human rights law designed to protect individuals from the unlawful and arbitrary curtailment or deprivation of other basic rights and freedoms, the most prominent of which are the right to life and liberty of the person. Fair trial is guaranteed under Article 14 of the International Covenant on Civil and Political Rights (ICCPR), which provides that everyone shall be entitled to a fair hearing by a competent, independent and impartial tribunal or court established by law.

The right to a fair trial has been defined in numerous regional and international human rights instruments as one of the most extensive human rights and all international human rights instruments enshrined in several articles show this. This right is adumbrated in the Universal Declaration of Human Rights (UDHR). It is predicated on the presumption of innocence until the accused is proven guilty particularly Article 10 which states that:

Everyone is entitled to a fair hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

In addition, Article 14(1) of UDHR on the basic right to a fair trial holds that all persons are equal before the courts and tribunals. Article 14(2) provides for the presumption of innocence, and article 14(3) sets out a list of minimum fair trial rights in criminal proceedings. Article 14(5) establishes the right of a convicted person to have a higher court review of the conviction or sentence, and Article 14(7) prohibits double jeopardy. The right to fair trial is applicable to both the determination of an individual's rights and duties in a suit at law and with respect to the determination of any criminal charge against the individual involved. It is part of the concept of human rights that involves the fulfillment of certain objectives, including the right to equal treatment, the right to defense in the interests of justice, as well as the obligation on the part of courts or tribunals to conform with the international standards in order to save the human person of the infraction of fair trial.

The right to fair trial can be categorized under three broad headings: pre-trial rights, trial rights and post-trial rights: The pre and post trial rights involve prohibition of arbitrary arrest and detention; the right to know the reasons for arrest; the right to legal counsel; the right to a prompt appearance before a judge to challenge the lawfulness of arrest and detention; the prohibition of torture and the right to humane conditions during arrest; prohibition of incommunicado detention; equal access to and equality before the courts (<http://www.humanrightsfirst.org>).

Trial rights include the right to fair hearing; the right to a competent, independent and impartial tribunal established by law; the right to presumption of innocence; the right to prompt notice of the nature and cause of criminal charges; the right to adequate time and facilities for the preparation of a defense; the right to a trial without undue delay; the right to defend oneself in person or through legal counsel; the right to examine witnesses; the right to an interpreter; the prohibition on self-incrimination; the prohibition on retroactive application of criminal laws; and, the prohibition on double jeopardy (<http://en.wikipedia.org>).

Human Person: This refers to the capacity for rational discernment present in a human being. As human beings, we are biological as well as social creatures; we inhabit both physical and cultural space. What distinguishes human beings is usually the quality or the personality in the human being. Perhaps a better understanding of the concept of the human person can be found in the claim of the contemporary literature of bioethics, which distinguishes a human being from a human person. Some authors in bioethics claim that a human being is any member of the human race or society whether with or without exercisable cognitive capacities. For some writers in this tradition, for a human being to be regarded as a person, he or she must have developed at least an incipiently exercisable cognitive capacities or abilities (Singer, 1994). Though, no human being should be exploited or be treated unfairly in any form in line with the dictates of the universal declaration, but the focus of this work is on those human persons who at the very least can exercise nascent cognitive capacities or abilities,

and who can therefore sue and be sued. This is why we have adopted the definition of the bioethics school which to an extent is in tune with legal validity, since fair trial is involved. The assumption here is that the dignity of the human person is the foundation of a moral vision for society. And, no human person should have his dignity, freedom, and equity compromised.

Political System: A political system refers to the politics of a government which invariably includes the character and class of those in power in the country. It is an embodiment of formal and informal structures which characterize the civil aspect of statehood. Though some system analysts like Easton (1965) have portrayed political systems as abstract constructs, political systems over the years have shown that a lot more go on in governance, such as interest balancing among competing interests. It is along this thinking that Rummel's conception of a political system provides an illuminating picture. For him, the following questions tell us about the character of a political system: (1) Does the system grant members of the state the right to compete for elite status? (2) Does the system insulate authoritative roles and law norms from change by non-elites? (3) Does the opportunity exist in the political system for changing the fundamental laws governing the state? And, is there freedom of political opposition and competition for power? (Rummel, 2015). In sum therefore, a political system can be seen as the principles and ideals applied in governing a state such as totalitarian, authoritarian, and democratic (Iwara, 2015). The principles and ideals of governance determine the degree to which a state promotes or abuses human rights. It is in this way that the political system is applied in this work.

III. The human person and fair trial in Nigeria

A fair trial is a means of separating the guilty from the innocent and protecting the human persons against the infraction of the judicial processes. Without this right, the rule of law and public faith in the justice system could wither away. In Africa, the right to a fair trial is enshrined in articles 3, 7 and 26 of the African Charter on Human and Peoples' Rights (ACHPR). The right to equality before the law which is a version of fair trial entitles individuals to be recognized as subject and not as object. In Nigeria, this right is enshrined in Chapter four of the Nigerian Constitution of 1999 as amended, and its provisions are specifically under section 36(1). The section provides for fair hearing in judicial prosecution, and calls for the protection of fundamental rights in this regard. Contrary to the view that constitutions do not safeguard against abuses, the problem of Nigeria for instance is that those that rule do not largely adhere to the rule of law.

Abuses of excessive pre-trial detentions occur in Nigeria, often due to the blatant violation of the provisions of the law by the government. The current regime in Nigeria is under the guise of corruption war showing elements of disregard to the rule of law. The constitution of any nation is suppose to be the basic foundation for good governance just as it defines the power and authority of agencies of government and the manner in which the agencies interrelate as well as the accompanying checks and balances. Amongst other things, chapter 4 of the Nigerian constitution provides that people should not be subject to arbitrary arrest or detention, and the accused should be treated as innocent until proven guilty. It further states that the accused must have access to legal advice and representation, be allowed to have a public hearing in court and have the right of appeal. The due process of law insists that the application of the law must conform to the strict legal procedures that are predictable, reasonable, appropriate and fair. In spite of all these provisions in the Nigeria constitution and the African regional charter, fair trial suffers a lot of pre-trial challenges that are of serious concern in Nigeria. Detention of those accused of offences lasts more than three years in some cases without trial. Sometimes, trials are without the opportunity to see a lawyer. In most cases, detainees spend more time languishing behind bars without trial well beyond the time required as punishment for the crime when convicted. Many inmates in Nigerian prisons are pre-trial detainees. Stakeholders in the country tend to agree that unless something concrete is done to reduce the thousands of pre-trial detainees in Nigerian prisons, the justice system will remain an aberration.

In 1985 for instance, the police in Owerri, in the southeast region of Nigeria, arrested a 19 year old man over suspicion of murder, and no trial took place over the allegation despite what they considered the seriousness of the crime. Rather, he was left to stay in detention, waiting endlessly for several years. It never came. Twenty-one years later, in July 2006, the man was released at the age of 40. This is not an isolated case as many other cases like this happen.

The Open Society Foundations states that detention without trial could be traced to four factors. First, many victims of lengthy pre-trial detention are poor and therefore unable to afford the three practices (3bs) that characterize the practice of some operators in the justice system of bribe, bail, and barrister. Second, the allocation of responsibilities among law enforcement institutions is not coordinated. For example, even though most offences are state-created, states' attorneys general do not have oversight of the police and the prisons. In practice, this means that the attorneys general, as chief law officers, cannot monitor the movement of suspects into and out of detention facilities within the state, and, therefore, cannot ensure compliance with the constitutionally guaranteed right to trial within a reasonable time. Third, the law requires police to investigate

complaints and allegations before arrest. Regrettably, the reverse is the case in Nigeria. Fourth is that, criminal procedure laws in most Nigerian states give the police the liberty to secure indefinite pre-trial detention orders from magistrate courts even in respect of charges such as armed robbery and homicide over which they do not have jurisdiction. In the case of *Constitutional Rights Project and Nigeria*, several individuals were held incommunicado with no access to lawyers, doctors, friends or even their families, the African Commission held that the action of government clearly violates Article 7(1)(c) of the African Charter.

In *International Pen and Others (on behalf of Saro-Wiwa) v Nigeria*, the accused persons were According to the Commission executed against article 7, and also in violation of article 4 of the charter. The violations were compounded by the fact that there were pending communications as to the way out of the looming illegal execution before the African Commission. The Commission had requested the government to avoid causing any 'irreparable prejudice' to the subjects of the communications. This was because, while the communications were on-going, the Nigerian military government of Gen Sanni Abacha dastardly carried out the execution of Ken Saro Wiwa and the eight other Ogoni leaders.

The military government did not take account of the fact that the life of a human person is sacred and such sanctity ought to be respected. This is why under the rule of law requires that no human being should have his dignity or freedom compromised by another except on the orders of a competent court of law. The inalienable rights of a human person clearly stated in section 7 include, right to dignity of the human person, right to recourse to courts, right to appeal, right to information upon arrest and the presumption of innocence, right to defense counsel, right to be tried within a reasonable time, and such other rights. It is imperative to note that the law enforcement forces in Nigeria, particularly the police, are in the habit of violating these rights. They have in most cases preferred the use of torture and other cruel inhuman or degrading treatment to elicit information from suspects. It is not in doubt that many persons' rights have been flagrantly and wantonly violated all in the efforts to obtain information.

Apart from the abuse of the dignity of the persons for which they wrongfully arrest, similar are also accorded individual legitimately arrested. Most of the information obtained by our security agencies are information obtained by way of torture and coercion contrary to laid down procedures of interrogation. The rights enshrined in the International Covenant on Civil and Political Rights apply to all persons within a State and to all persons subject to its jurisdiction. The Constitutional provision is explicit on the protection and prevention of holding in slavery or servitude. The obligation is also clear on the role of the state to ensure that the full range of legal and practical safeguards to prevent torture including guarantees related to the right to personal liberty and security, and to due process rights. The international human rights legal framework as well as the Nigeria National Legal provisions requires that any deprivation of liberty should be based on grounds and procedures established by law, that detainees should be informed of the reasons for their detention and promptly notified of the charges against them, and that they should be provided with access to legal counsel. In addition, prompt and effective oversight of detention by the Attorney Generals ought to be ensured to verify the legality of the detention and to protect other fundamental rights of the detainee. Even in a state of emergency, minimum access to legal counsel and prescribed reasonable limits on the length of preventive detention remain mandatory (Ewulum, 2015).

The right of recourse to courts: Access to court is a central aspiration of all human rights instruments and is central to the rule of law. Problems of access to court could arise in a variety of contexts, including instances where the state restricts access to persons who might be able to assist the individual in bringing proceedings, such as legal advisers. It could arise where the state denies legal aid to an indigent accused person or where the state issues decrees ousting the jurisdiction of the court from entertaining certain complaints.

The African Charter provides for the right of appeal to competent national organs against acts that violate guaranteed rights. In the case of *Constitutional Rights Project and Others v Nigeria*, the Nigerian government which promulgated some military decrees proscribing over 13 newspapers and magazines published by three media houses was challenged over the decrees prohibited media houses from publishing and circulating government activities in Nigeria or any part thereof for a period of six months, with a proviso for extension, if necessary. The proscription occurred while suits were pending before competent courts over the illegal invasion and closure of the premises of the said media houses. The African Commission held that the act violated the right to fair hearing.

The implication of the government decrees is that a duly instituted court case in the process of litigation was nullified by executive decree foreclosing all possibility of jurisdiction. The action did not take cognizance of the fact that a civil case in process is itself an asset, one into which the litigants invest resources in the hope of an eventual right or impending favour. Apart from the sweeping powers of military decrees under military rule in Nigeria, the judiciary on whose ambit human rights largely rest is not independent of government intervention as we have so far proven in this work. The independence of the judiciary is a condition in any political system that aims at protecting citizens against abuses of state power (Robertson, 1993: 370). Independence implies regulatory capacity to ensure the freedom of decision making and having power in

the decisions. A judicial body is independent when it enjoys the latitude to determine the appointment of its members and the duration of their office, and the existence of guarantees against outside pressures.

It also follows that, a court is said to be independent if it exercises jurisdiction over all issues of a judicial nature and has exclusive authority to decide whether an issue submitted for decision is within its competence, as laid down by law. The lack of this could mean the denial of fair trial and because the right to a fair trial is breached when the independence and objectivity of courts are not guaranteed and secured. Regrettably, judicial independence has not been the experience in Nigeria, particularly during the era of military regimes when military decrees are routinely employed to oust courts' jurisdictions. Ouster clauses prevented ordinary courts from taking up cases placed before special tribunals or from entertaining appeals from decisions of such tribunals.

The case of *Civil Liberties Organization v Nigeria* presented before the African Commission gave the commission the opportunity to consider the relationship between the independence of the judiciary and state's obligation under the African Charter. The military government enacted various decrees, including the one suspending the Constitution and specifying that no decree promulgated after December 1983 could be examined in any court. Another decree dissolved political parties, ousted the jurisdiction of the courts and nullified any domestic effect of the African Charter. The Civil Liberties Organization complained of the effect of these decrees on the independence of the judiciary and the inability to seek redress for acts violating fundamental rights. The Commission held that the right to have one's case heard included complaints about violations of rights in treaties that Nigeria had ratified. Given that Nigeria has not denounced the African Charter, it could not negate the effects of its ratification through domestic action, but rather remains under an obligation to guarantee to all its citizens the rights under the Charter, including the one on fair hearing. The African Commission also held that the ousting of the courts' jurisdiction over decrees enacted, or to be enacted, since 1983 constituted 'an attack of incalculable proportions on Article 7 on the right to be heard and the obligation to establish and protect courts.

The Commission was concerned with the fact that any ousting of the court's jurisdiction 'is especially invidious, because while it is a violation of human rights, it in itself permits other violations of rights to go unredressed. Judicial independence is also assaulted where military personnel with little or no knowledge of the law are appointed to serve in judicial capacities. This was the case of the *International Pens*; the Commission held that the violation of the impartiality of tribunals occurs, in principle, regardless of the qualifications of the individuals chosen for a particular tribunal. Appointment of non-judicial personnel into judicial bodies has been a regular feature of the judicial system in Africa, especially under military regimes. Governments usually justify the creation of these special tribunals on the need to ease the burden of cases in regular civil courts, but the African Commission rightly rejects such an alibi. It insists that if the domestic courts are overburdened, which the Commission does not doubt, the Commission recommends that the government considers allocating more resources to them. The setting up of a parallel system has the danger of undermining the court system and creating the likelihood of unequal application of the laws.

The pathetic case of *Nasiru Bello* during the military era in Nigeria was a sad example of execution while appeal to a higher court was still pending. In the case, Nasiru Bello, a convicted person was executed by the Oyo State government while his appeal to a higher court was pending. At the suit of the deceased family, the Supreme Court of Nigeria held that the Oyo State government violated the deceased right to life and ordered compensation to his family.

Special tribunals also violate the African Charter to the extent that their judges are specially appointed for each case by the executive arm, and would include on the panel at least one, and often a majority, of military or law enforcement officers, in addition to a sitting or retired judge.

In the *Media Rights Agenda* case, the complainant alleged that the tribunal that tried and convicted the accused person was neither competent, independent nor impartial as the then military Head of State, General Sanni Abacha, and his Provisional Ruling Council (PRC) hand-picked its members who happened to be the same persons against whom the alleged offence was committed. For instance, the President of the tribunal, Major-General Victor Malu, was a member of the PRC. The African Commission, in another matter involving one Malaolu stated that a civilian cannot be arraigned before a special military tribunal, presided over by serving military officers, who are still subject to military commands. The commission saw that, as prejudicial to the basic principles of fair hearing guaranteed by article 7 of the Charter. It advised that special tribunals cannot exercise jurisdiction over civilians and that tribunals should avoid offences that fall within the jurisdiction of regular courts.

The Commission has also held that failure to recognize grant of bail by courts, as the Nigerian government did in the case of Chief Moshood Abiola, is a violation against the independence of the judiciary. It can be recalled that despite the order for his release on bail made by the Court of Appeal, the government refused to release him. Of course it is no longer news that Chief Abiola died in detention. The bail refusal violates article 26 of the charter which obliges states to ensure the independence of the judiciary.

The struggle for political power has in contemporary times conditioned the political system and the use of elements of bad politics to infiltrate the judiciary which among other things encourage the detention of political opponents in the name of alleged crimes such as corruption. The current government in power is beginning to be totalitarian, denying almost outright the independence of the judiciary. This is exemplified by the denial of detained suspects of their rights to judicial bails, and the threatening of lawyers who offer to defend the accused persons has increased the instability in the Nigerian state. Some legal practitioners in Nigeria are already tagged "state enemies" as government result in the use of the anti graft agencies to threaten lawyers and judges. For instance, some Judges of the Supreme Court and the High Court were recently arrested in a commando manner by the Department of State Security Service over corruption allegations to worsen the image of Nigeria before the international community (Nigerian Tribune, October 12, 2016).

Other perpetrations that are ongoing include detention without bail involving leaders of aggrieved groups who are detained and denied bail while members of their groups and communities are held on gun points. This includes the case involving Nnamdi Kanu who is the supposed leader of the indigenous people of Biafra, and Ibrahim Zaky El-Zaki who is the leader of the Shiirts Islamic group, and a host of others. The perpetual detention involving Rtd Col. Dasuki, over allegations of corruption, is already generating controversies. The case of Dasuki is another pointer to the fact that you can be granted bail by the court but the executive of government will deny you the bail. Bail, in the current dispensation in Nigeria, has become an instrument of piecemeal oppression used to silence opposition. This wanton violation of court orders grossly infracts the right to fair trial in Nigeria (<http://pointblanknews.com>)

The most worrisome of the totalitarian political system the present regime in Nigeria is applying, is the denial of fair trial, and the inhuman treatment of persons alleged to have committed crimes. This paints the picture that the human worth is unimportant. It is a pity that Nnamdi Kanu, Ibrahim Zaky El Zaki and Rtd Col Dasuki are continually being detained perpetually with no end in sight (<http://www.social.nigeriavillagesquare.com>).

IV. Conclusion

This paper discussed the impediments of the authoritarian and the totalitarian political systems currently the vogue in Nigeria, to fair trial rights. The paper noted that the Nigerian state glaringly operates below the rule of law, given the actions of government which show that the government of the Nigerian state as presently constituted has no regards for people under trial. It is also clear that the federal government of Nigeria has no room for people expressing their grievances as such expression of grievances is regarded as criminal acts, punishable by perpetual detention without immediate trial in court. It becomes noticeable from the analysis of this work that human dignity is denied persons on trial especially those that are not covered by the state power. There were clear indications that the refusals of bails granted by the Nigerian and sub-regional courts were driven by sentiments, political retaliations, political selectivity and power play rather than national interest. It is observable that the concerted efforts by the African Commission to ensure that fair trial applies in the country faced stiff opposition. This creates a necessity which requires that the African commission on its part has to reappraise its human rights charter to make it more effective, especially with regard to the provisions on fair trial. The commission however has to be commended for challenging human rights violations by dictatorial regimes through its decisions or resolutions.

The right to a fair trial is meaningless where there are no effective checks, balances and remedies. It is noteworthy that most of the violations discussed in this paper have gone without remedies to the complainants and this is because of the notable inherent deficiency in the African Charter domesticated in Nigeria. For Byrnes (2000: 139-143), an effective procedure is one that provides an accessible and relatively speedy procedure for reviewing both parties' claims of fact and law in a fair manner that results in the determination to remedy any violation within a reasonable time. In this regard, if the complainant is granted remedy, the Commission would cease from being a toothless bulldog.

Lastly, we acknowledge that though the framework of laws exist for the application of fair trial in the African Charter and the Nigerian constitution, such provisions have proved to be sub-optimal, as sanctions for those that infract them are not expressly stated. To this end the paper noted that the menace of unfair trial will continue to persist in Nigeria if steps are not taken to address the insensibility. We should add by way of conclusion that the Attorney Generals and Ministers/Commissioners of Justice at the federal and state levels should have as part of their responsibility, the promotion of fair trial in the Nigerian courts. It is also important to suggest that the government of the Nigerian state shifts away from the prevailing political systems of authoritarianism and totalitarianism to democratic ideals which seem to have a focus on human worth.

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