

AN ANALYSIS OF THE ROLE OF THE UNITED NATIONS IN PROMOTING AND PROTECTING HUMAN RIGHTS

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Abstract

As a global structure aimed at protecting Human Rights as enshrined in the United Nations Charter and other legally binding treaties and non-binding declaration in a bid to promote Human Rights throughout the world, there is a need to critically examine the activities of the United Nations since its inception in 1945. This paper examines the historical aspect of the United Nations contributions to Human Rights promotion and protection as well as its threat and triumph in the advancement of Human Rights across the world. In a world bedeviled by arbitrary arrests, imprisonment without trial, attack on freedom, inhuman and humiliating punishment, mass killings, ethnic cleansing, enslavement, and other serious attacks on a person's physical and moral integrity, this paper is focused on an analysis of the United Nations activities in promoting and protecting Human Rights, its origin and evolution, as well as the challenges associated with this effort. Amongst all, this paper recommends that agencies of government must be adequately funded, trained and equipped for responsible use of firearms in consonance with International Human Rights standards. In addition, any officer found to have participated in the unlawful termination of life should not just be dismissed from service but also be prosecuted, and a system should be set up to cater to the needs of victims and their dependents.

Keywords: United Nations, Human Rights, UDHR, Promotion, Protection, ICESCR, ICCPR.

1.0 Introduction

The subject of Human Rights appears to occupy a foremost place of pride in both municipal and international forums with a special call for its promotion and protection all over the world. History was made on December 10th 1948 when the Universal Declaration of Human Rights (UDHR) was unanimously approved by the United Nations General Assembly (UNGA). Although not binding for it was not a treaty, this declaration received catholic acceptance across the globe toward the protection of Human Rights. It is pertinent to note that the Universal Declaration of Human Rights (UDHR)-1948, International Covenant on Economic Social and Cultural Rights (ICESCR)-1966, and International Covenant on Civil and Political Rights (ICCPR)-1966 make up the International Bill of Human Rights.

Furthermore, some of the clauses in the Universal Declaration of Human Rights (UDHR) forms part of our extant law which is aimed at the promotion and protection of Human Rights in Nigeria. A cursory look at Chapter 4 of the 1999 Constitution of the Federal Republic of Nigeria (As amended) shows that it is in tandem with the Universal Declaration of Human Rights (UDHR) provisions on Human Rights protection.

The question then arises: What are Human Rights? Several views have been canvassed on the definition of Human Rights. One of such views was put forward by *Emelouye*, who define Human Rights to:

‘Inhere in the nature of every human person and ensures that human life is held to be secret and guaranteed that every form of inhumanity and injustice are redress.’⁷⁰

In simple terms, Human Rights are rights which inhere in man by the very virtue of his humanity, bestowed on man by God right from creation, to make his existence on earth worthwhile and meaningful.⁷¹

The United Nations system on Human Rights is premise on three components. First, it established International Standards which is made manifest through its charter and legally binding treaties which borders on Human Rights promotion and protection, Second, there is a call to action for special rapporteurs, experts, and groups like working groups, committees and treaty bodies, to champion the course of Human Right promotion and protection by working in various manner to bring it to fruition. Third, Voluntary funds are made available for advisory services and technical assistance in the field of Human Rights.

⁷⁰ JN Aduba, ‘*An Introduction to Human Rights Law in Nigeria*’ (LAP LAMBERT Academic Publishing 2016).

⁷¹ Lloyd Megwara, ‘Understanding Human Rights 1.’ *DAILY CHAMPION* (Wednesday, August 18, 1999).

The United Nations is made up of six major organs which include; The General Assembly, The Secretariat, The Security Council, The International Court of Justice(ICJ), The Trusteeship Council and The Economic and Social Council.⁷²

1.1 Historical Background

Human Rights can be traced to the dawn of civilization, several historical events have shaped the course of Human Right development beginning with the Magna Carta (1215), the Habeas Corpus Act (1679), the Bill of Rights and the Glorious Revolution in England, the American Bill of Rights (1776), the French declaration of the Rights of Man and the Citizen (1798), the Communist Manifesto (1842) and the Russian Revolution. Hence, the League of Nations in 1919 after the First World War (1914-1918) never acquired a universal character, being handicapped from the outset as a result of the non-participation of the United States of America. The failure of the League of Nations led to the Second World War (1939-1945) which is recorded as the egregious violation of Human Rights masterminded by the Nazi regime of Hitler. To avoid a repeat of this nightmarish atrocities, the United Nations was formed after the Second World War in 1945. Soon after, the United Nations Commission on Human Rights was created by virtue of Article 68 of its Charter and established the Commission on Human Rights in 1946. It drafted two legal binding covenants- the International Covenant on Economic, Social and Cultural Rights (ICESCR); and the International Covenant on Civil and Political Rights (ICCPR). Both of which were adopted by the General Assembly in 1966 came into force in 1976.⁷³

Essentially, the most important impact of the UDHR which was adopted on December 10th, 1948, can be drawn from the angle that catapulted and inspired other Human Rights instruments both under the auspices and regional Human Rights regimes and National Constitutions of many Nation. Other conventions, declarations and resolutions under the United Nations and other regional organizations reaffirming and expanding the scope of Human Rights have been adopted over the years some of them include; International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) 1965, Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 1979, Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) 1984, Convention on the Rights of the Child (CRC) 1989, International Convention on Protection of the Rights of All Migrant Workers and Members of Their Families (ICMRW) 1990 etc. ⁷⁴

⁷² Ibid.

⁷³ TF Yerima, 'Internationalization of Human Rights; A Critical Appraisal and Comparison of Trilogy of Documents in the U.N System' [2004-2005] (8) *Property & Contemporary Law Journal* 74-77.

⁷⁴ Faith Allison-Kulo, 'International Protection of Human Rights: The United Nations System,' [2017] (9) (1) *Journal of Jurisprudence and Contemporary Issues* 295-312.

1.2 The United Nations Mechanism for the Promotion and Protection of Human Rights

The concept of Human Rights has been given Judicial Notice in the case of *Ransome Kuti v A.G of the Federation*.⁷⁵ Kayode Eso (*J.S.C*), as he then was, described Human Rights thus:

‘...a right which stands above the ordinary laws of the land and which, in fact, is antecedent to political society itself. It is a primary condition to a civilized existence...’⁷⁶

After the end of the World War II there was the ‘*Nuremberg Trial*’ which sought to address the infringement of Human Rights during the Word War II. The principle of the Universal of Declaration of Human Rights (UDHR) was incorporation by different governments of the world to form their extant law. For instance, under the UDHR, every person is entitled to the right to liberty, security, and life. The United Nations went further to secure this right in its quest to promoting them through various methods suc as:

i. Monitoring of Human Rights: Different working groups, treaties, bodies and special rapporteurs adopt these mechanisms in the implementation of Human Rights. This mechanism can be categorized into two-conventional and non-conventional. For the conventional approach, there are committees such as Committee for Elimination of Women Discrimination, Economic Committee, Committee against Torture, Racial Discrimination Committee, Human Rights Committee, Social and Culture Rights, Committee for Child Rights, etc. On the other hand, the non-conventional mechanism incorporates assigned specialists with unique Human Rights enforcement knowledge are appointed as special reporters, it also incorporates non legislative offices and comparatives bodies.

ii. Procedures for Individual Complaints: Victims of Human Rights violation can seek redress by making an appeal before the United Nation High Commissioner's Office for Human Rights which is situated in Geneva. This office primarily entertains political and civil rights. This helps keep an eye on Human Rights infringement by the government.

iii. Examination of Existing Human Rights’ Enforcement: It help to assess the effectiveness of Human Rights protections and identifies areas for improvement. This is conducted by Human Rights bodies such as the United Nations treaty bodies or special rapporteurs. They also provide recommendations for addressing Human Rights concerns.⁷⁷ In 1993 the position of High Commissioner for Human Rights was

⁷⁵ (1985) 2. NWLR. (Pt.6) 211, 230.

⁷⁶ *Ransome Kuti v Attorney General of the Federation* (1985) 2 NWLR (Pt 6) 211-230.

⁷⁷ Ogbu Franklin, ‘Character of the United Nations in the Promotion and Protection of International Human Rights’ (2022) *Research Gate Journal* 1-9 <<https://www.researchgate.net/profile/Franklin-Ogbu/publication/381173271>> accessed 16 August 2024.

created to coordinate the activities of Human Rights' enforcement; advisory Services were also availed to the governments of various states to promote the enforcement of Human Rights.

In addition, the United Nations plays a pivotal role in international agreements that border on Human Rights and the Administration of Criminal Justice.⁷⁸

Accordingly, some of the major regional Human Rights regimes existing for the protection of Human Rights include: The European Convention for the Protection of Human Rights and Fundamental Freedoms adopted in 1950 entered into force in 1953, The Inter-American System which has two legal sources- the American Declaration of the Rights and Duties of Man (adopted in 1948); and the American Convention on Human Rights (adopted by the Organization Of American States (OAS) in 1969) and thirdly, African Union (AU) mechanism under the African Charter on Human and Peoples' Rights (adopted by the AU General Assembly on 28 June 1981, and which came into force on 26 October 1986.)⁷⁹

1.3 Successes of the United Nations

In the condemnation of apartheid as an International Crime which reinforces the problem of state guilt in international criminal law, the United Nations was instrumental through the United Nations Ad-Hoc Group of Experts to Southern Africa in 1981.⁸⁰

The United Nations has attempted, on numerous occasions, to try those responsible for war crimes against humanity. This was achieved in former Yugoslavia where an International War Crimes Tribunal was established by the Security Council in 1993 to try war crime suspects.⁸¹

In addition, the United Nations Human Rights body has adopted a resolution recently, condemning the alleged use of starvation of civilians as a method of warfare in Gaza while simultaneously calling for arms' embargo on Israel.⁸²

Similarly, the trial and prosecution of Charles Taylor (a murderous rebel leader) by the International Court of Justice, who is currently serving jail term, is a testament to the past successes of the United Nations. For Charles Taylor, among his numerous sins were the destruction of a generation of children, the destruction

⁷⁸ Ibid.

⁷⁹ Faith Allison-Kulo, 'International Protection of Human Rights: The United Nations System' [2017] (9) (1) *Journal of Jurisprudence and Contemporary Issues* 295-312.

⁸⁰ R Blackburn and J Busuttill, 'Human Rights for the 21st Century.' (1st end, A Cassel Imprint 1997).

⁸¹ Ibid.

⁸² Ziad Taleb, 'Gaza: Human Rights Council resolution urges arms embargo on Israel' UN News. <<https://news.un.org/en/story/2024/04/1148261>> accessed 2 September 2024.

of the tradition and culture of the people, and the sponsorship of an insurrection system in neighbouring countries like Sierra Leone.⁸³

Beyond this, the United Nations has also, on many occasions, made provision for shelter and relief materials to millions of refugees who were/ are victims of war and inhuman treatment in countries such as Syria, Ukraine, and many others. Finally, the United Nations has been at the forefront in the decolonization of countries under the grip of colonial rule. This was spearheaded by the United Nations Trusteeship arrangement.⁸⁴

1.4 Challenges

Primarily, a major challenge hindering the effectiveness of the United Nations in promoting and protecting human rights, amid peace-threatening occurrences, is the scourge of political insurrection in different parts of the globe.⁸⁵

Essentially, a problem could arise if the General Assembly passes a resolution on a matter related to international peace and the Security Council disagrees with the Assembly's approach which could lead to paralysis in addressing critical International issues.

1.5 Case Studies: A Critique

God created man free, but man bound man with law. God made man free but man put man in chains, using law. Man was made or born free and with equal rights with time and with the growth and the world population, man began to live in society, or community, and the need for government arose.⁸⁶

Following the Al-Jazeera TV footage of the heinous atrocities committed during the Boko Haram crisis, Fulani Herdsmen, Banditry and Jos crises, Nigeria's international standing is low in the protection of lives and property. The United Nations Human Rights council met at Geneva to address this concern. However, these problems are very much present, and perpetrators are walking free. There is need for the protection of the sanctity of human life. I vehemently believe, that with the strong presence of the United Nations in the World today and through the seventy-nine years of its existence, it needs to do more in terms of enforcement of Human Rights protection in uncharted territories of the World.⁸⁷

⁸³ Charles Onunaiju, Liberia: 'President Sirleaf and the Burden of Charles Taylor.' *Weekly Trust* (Lagos, February 4-10 2008).

⁸⁴ Faith Allison-Kolu, 'International Protection of Human Rights: The United Nations System' [2017] (9) (1) *Journal of Jurisprudence and Contemporary Issues* 295-312.

⁸⁵ DA Guobadia, 'Legal Dimensions of Peace Keeping Operation' [2001] *Nigerian Institute of Advanced Legal Studies Lagos*.

⁸⁶ E Malemi, 'The Nigerian Constitutional Law' (Princeton Publishing 2012).

⁸⁷ Funke Aboyade, 'If the Next AGF is Serious.' *THISDAY LAWYER* (April 6, 2010).

Bacre Waly N'Diaye who was a Senegalese lawyer and the United Nations representative on Human Rights reported to the United Nations Human Right Commission on the mass ethnic killings and the deterioration of Human Rights before the 1994 Rwanda Genocide between Hutu and the Tutsi. However, the commission did not act fast against an early warning which would have possibly prevented the scourge of the 1994 Rwanda Genocide. It was recorded that more than a million people perished in the Genocide.⁸⁸

The euphoria that marked the independence of many African countries have vanished and Africa is today caught up in a convergence of crisis in all sectors begging for attention. As rightly said, “In Africa politics there is only the choice between three evils- absolute power, violent death and dishonourable exile.”⁸⁹

1.6 Recommendations

In charting a course for the prospect of United Nations promotion and protection of Human Rights, it is imperative to take the following recommendations into cognizance:

- i. Agencies of government must be adequately funded, trained and equipped for responsible use of firearms in consonance with International Human Right standards. In addendum, any officer found to have participated in the unlawful termination of life should not just be dismissed from service, but also prosecuted. A system should be set up to cater for the needs of victims and their dependents.⁹⁰
- ii. It is important for the media and Human Rights crusaders to collaborate in exposing violations of Human Rights in all its ramification and these violations should be viewed beyond arrest and detention.
- iii. There is the need for timely and regular review of Human Rights records, and this should be anchored by the Universal Periodic Review (UPR). The Human Rights Council should be revamped to further increase its effectiveness and representation.

1.7 Conclusion

⁸⁸ R Blackburn and J Busuttil, *‘Human Rights for the 21st Century.’* (1st end, A Cassel Imprint 1997).

⁸⁹ Mathews, Kay Ibeanu, Okey, ‘Some Reflections on Human Rights and Refugees in Africa’ [1992] (18) *Property & Nigerian Journal of International Affairs* 12-17.

⁹⁰ Funke Aboyade, ‘If the Next AGF is Serious.’ *THISDAY LAWYER* (April 6, 2010).

As the United Nations continues its journey toward the protection and promotion of Human Rights at the global level, the significance of a well functional Human Rights enforcement mechanism cannot be overstated. To this end, the signing of the United Nations Charter in 1945 brought Human Rights into focus within the sphere of International Human Rights Law. However, Human Rights abuse has continued to occur in different parts of the world with impunity. It suffices that skilful diplomacy is needed to preserve every human being from the scourge of man's inhumanity to man orchestrated by Human Rights violators across the globe, this should not be treated with kid gloves. In addition, there must be political will on the part of the government to ensure the implementation of socio-economic and cultural rights, and respect for International treaties contained in the trilogy of documents (International Bill of Rights).