

THE ROLE OF THE NATIONAL HUMAN RIGHTS COMMISSION AGAINST HUMAN RIGHTS VIOLATION IN NIGERIA

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Abstract

This paper focuses on the role of the National Human Rights Commission against Human Rights violation (especially, torture) in the Nigeria society. This Essay identifies the issues surrounding the National Human Rights Commissions and why it has not been able to effectively solve the problem of torture and upholding human rights. Also portrayed in this essay are some situational analyses of victims, by restating some of the acts performed by law enforcement officers in Nigeria which differ from the protection and promotion of human rights. In the end, the essay concludes that the NRHC is well positioned to ending human rights violation in our society- since there is a legal framework, prosecution of human rights violators and criminalizing the use of torture can be achieved if implementation becomes the watch word. This study made use of a good qualitative research design known as Phenomenology. This was used in describing the essence of the Nigeria Police establishment; by giving an overview of the Nigeria society from pre-colonial era up till the democratic era to strike a balance on the changing pattern of human rights violation antecedents. The research methods employed are derived from primary and secondary sources (both primary and secondary sources were reported using the triangulation process). The retrieved data from books, journals and newspapers were analyzed using content analysis.

Keywords: Torture; Human Rights; Interrogation; Cruel Treatment; Violation

I. Introduction

Torture is an act by which a severe mental or physical pain or suffering is intentionally inflicted against an individual, at the instigation of or with the consent or acquiescence of a public official; the purpose of which is aimed at obtaining information, or a confession, or punishment for an act the individual has committed or is suspected of having committed, or intimidation, coercion, or discrimination of any kind (UN Convention, 1984). However, some pro- torture scholars have argued that in a world increasingly dominated by terrorists, kidnappers and bandits, the concept of torture becomes valid and justifiable. The prohibition of torture and all forms of cruel, inhuman, or degrading treatment or punishment is one of the principles of International human rights law. The Universal Declaration of Human Rights states that “No one shall be subjected to torture or to cruel, inhuman or degrading punishment.” It was also added that people have the right to an effective remedy if their rights are violated (United Nations, 2011). However, torture continues to be practiced in all parts of the world, even among democratic countries. In the UK for instance, it was alleged that the majority of immigration detention centers are currently run by private companies, some of which have come under fire for allegations of abuse and sexual exploitation but have hardly suffered any legal consequences (Kreienkamp, 2017). In January 2009, former President Obama signed an executive order banning torture and cruel treatment of detainees, yet nothing significant has changed in addressing the issue of torture (Shane, 2009). In Nigeria, discussions have also shed more light on the increasing use of force by state agents during arrest and how this constitutes to torture. In October 2020, the protest control operation during the EndSARS protest in Nigeria led to the torture and killing of unarmed citizens (Agbese, 2021). The movement almost became a global trend as it attracted world leaders like Antonio Guterres, Mike Pompeo, Hillary Clinton and many others tweeting to show “solidarity and support” (Windsor, 2020).

The EndSARS movement which was a peaceful call by citizens to disband the Nigeria's Special Anti-Robbery Squad unit of the Nigerian Police Force was characterized with brutality and violation of human rights (Agbese, 2021).

The inability of the International Commission of Human Rights to effectively tackle the issue of torture and uphold the Human Rights principles is mainly attributed to the politicization of the system by states and non-states actor. It is no news that states with the worst human rights records were often elected to leadership positions and one of the best ways to avoid criticism was to be elected to the commission. For instance, CHRs 53 elected members in 2005 was Sudan which was at that time pushing a slow-motion genocide in Darfur, Zimbabwe was elected while it was bulldozing the houses of 700,000 opposition supporters, Libya being a former chair of the CHR added to the litany of embarrassment, not forgetting China, Cuba and the United States of America (Mertus, 2014).

II. National Human Rights Commission

Following the British colonial expansion in Nigeria by 1981, local and decentralized police forces were created in 3 regions - Lagos colony, the defunct southern and northern protectorates. The primary motive for the establishment of the police force was to propagate the economic and political agenda of the colonizers; this was achieved with force, violence, torture and subjugation. This same structure remained even after Nigeria gained independence in 1960 and at this point, public perception about the use of torture was inherent in their experiences during the colonial era (Human Rights Watch, 2005). Post-independence and subsequent military regimes in Nigeria have used the police to establish control and dictatorial rule. The duty of the police which was meant to be for the protection of lives and properties has been reduced to economic gains. Methods of police killings, torture and human rights violation are reported in cases where motorists are stopped at checkpoints and tortured if they refuse to pay bribes as low as 100 naira (\$0.15), while others are shot dead for refusing to oblige (Iheamachor, 2020). While some academic scholars have attributed this factor to the low funding and poor salary scheme of the Nigeria police force, it still remains unjustifiable.

The National Human Rights Commission was established in 1995 and responsible for protecting and promoting human rights in Nigeria. It was also charged with the duty of investigating cases of human rights violation and torture. In December 2017, Nigeria signed into law the Anti-Torture Act 2017. This was done in acknowledgement of her obligations under the United Nations Convention Against Torture, Cruel, Inhuman or Degrading Treatment or Punishment and its optional Protocol (Oboirien, 2020). The NHRC has a Governing Council which consists of 16 members made up of a chairman who shall be a retired Justice of the Supreme Court of Nigeria or the Court of Appeal or a retired Judge of the High Court of a State and an Executive Secretary. The members of the Council are appointed by the President on the recommendation of the Attorney – General of the Federation. More so, the Commission is the highest National Institution dealing with human rights has presented a common front on human rights and put in place adequate mechanisms for the effective promotion and protection of human rights in Nigeria. Through a consultative and collaborative process, the Commission has developed a National Action Plan for the promotion and protection of human rights in Nigeria. The National Action Plan includes effective complaint mechanism, regular hosting of enlightenment seminars, workshops, rallies and continuous reengineering of its strategies (Amalu and Adetu, 2019).

However, it is obvious that the above commissions has not been able to effectively tackle cases of violation and torture for some reasons- Inadequate funds by the Commission often frustrates its desire to effectively carry out investigations, wider campaigns, advocacy programmes and provide legal aids for victims as well as other activities. More so, the NHRC is faced with the challenge of inadequate support by national authorities, civil society

organizations and International organizations. For effective discharge of their duties, the Commission needs the support of international bodies and other national agencies. Lastly, the issue of personnel autonomy takes the center stage among the major challenges of the Commission. The Human Rights Implementation Centre of the University of Bristol Policy Paper (2011, pp. 2-3) asserted that autonomy is believed to encompass the ability of the NHRI to operate without influence from not only government but also other stakeholders and other political forces. No doubt, several cases of torture have been reported to the appropriate authorities by these agencies, yet, none has been prosecuted, it usually ends with media propaganda that the perpetrator has been dismissed from service and the authenticity of this report about his/her dismissal cannot be verified in the long run; once the perpetrator eventually leaves the country and travels abroad, the case is closed and sealed.

III. Instances of Humman Rights Violation/Torture in Nigeria

Amnesty International Researchers and Human Rights Watch who visited Nigeria few years ago and even recently have documented a plethora of allegations of torture and ill treatment from victims in prisons. In 2008, Amnesty International reported that the Nigeria military forces have extra judicially executed more than 1,200 people and arrested at least 20,000 young men and boys; and have used several acts of torture in order to extract information “confessions” that are later used as evidence in the court of law. Following this, over 7,000 have died in detention as a result of either negligence to their medical needs, starvation or severe torture (Amnesty International, 2014).

In 2020, the NHRC had received and documented 105 complaints of incidents of human rights violations carried out by security forces in 24 out of Nigeria’s 36 states, 8 of those killed were by Police officers in Kaduna state. Other types of violation were 33 incidents of torture, inhumane and degrading treatment, 27 incidents of violation of right to freedom of movement, unlawful arrest and detention, 19 incidents of seizure/confiscation of properties, 13 incidents of extortion, 4 incidents of SGB and 1 incident of discrimination in the distribution of food items (Oboirien, 2020). BBC Africa published a documentary on the use of torture by the Nigerian security forces. The methods employed involves binding detainees in a painful fashion, arms are tied at the elbows, feet also tied to the back causing the spine to hurt and most times dislocate, heavy blocks or concretes are placed on the back of the victims to inflict excruciating pain. The acts of torture include but not limited to the following – indiscriminate and unlawful arrests, illegal detention, extrajudicial killing and death as a result of torture, beatings, psychological injuries, nail extractions, Rape and sexual molestation, starvation, shootings, teeth extractions, water torture, suspending detainees on a pipe or rod, abuse of migrant domestic workers (Uwazuruike, 2020).

According to a 69-page document released by the United States District Court in February 2021, alleged that Hushpuppi (Cyber fraudster, famously known as Billionaire Gucci Master) paid \$20,600 to Abba Kyari (Nigeria Police Officer and leader of the Intelligence Response Team) to unlawfully detain and torture Kelly Vincent over a disagreement. The victim was tortured and kept in police custody for several months and was not allowed access to his family or even a lawyer. The police officer was allegedly involved in an international scheme to defraud a Qatari businessman the sum of \$1.1m. Apart from his suspension from the police force, no stringent action or investigation has begun; Abba Kyari is yet to be tried in any law court concerning this allegation and has refused the FBI invitation for questioning. Now, if the leader of the Intelligence response team is facing such corrupt charges, what is the fate of the entire Nigeria Police structure? (Adepegba, 2021).

A young man named Elvis Okafor went out to buy medication and food for his sick mum was reportedly arrested by the Nigeria police and paraded naked as an ESN member – Eastern Security Network (an arm of the Independent People of Biafra). His cousin has cried

out to different social media platforms soliciting for help as he has been denied bail and access to lawyers, for an association he allegedly knows nothing about. Even if the young man was a member of this association, when has it become an offence to be part of a secession group? (Akasike, 2021)

Moses Akatugba, aged 16 was arrested on suspicion of being an armed robber. At every occasion he had denied this charge, he said his only offence was been at the wrong place at the wrong time. He was detained army barracks (Ekpan, Delta State, Nigeria), where he was beaten, tied up and suspended upside down for hours, his fingernails and toenails extracted, he was forced to sign and accept confessions that were written by the police. He had to consent because the torture was unbearable at that point. Following his “confession”, he was sentenced to death. Amnesty International had brought in a lawyer who filed an appeal against the judgment of the Court and was found not guilty (Amnesty International, 2014).

Two college students (Names withheld) who were aged 17 and 18 respectively were both gang-raped by three police officers including a Deputy Superintendent of Police (DSP) James Uttang. According to the victims, at about 6pm a vehicle intercepted them on the road and asked them to get into the vehicle, they refused and the men showed them their police identity cards, threatened and bullied them into the vehicle. They all took turns to rape them at the station that night (Human Rights Watch, 2005).

Cases of torture, brutality and violation of human rights are rampant on the streets of Nigeria and it keeps getting worse by the day. Sadly, citizens have lost faith in the operations of the Police -the situation in Nigeria is such that people are happy to encounter armed robbers on their way than encounter the Police because there is absolutely no much difference in their operations; while an armed robber is only after your money or assets, the police rob you off everything, torture and still detain you. Ironically, none has been brought to book; as the Nigeria authorities have failed to prosecute a single officer from the notorious SARS group even after the protest.

IV. Conclusion

This paper posits that torture under no circumstances is justifiable as it is contrary to all laws known to man -natural, domestic, religion, national and international law. The concept of human security should be considered a new paradigm in the Nigeria society and even globally. While the Nigeria government has focused more on national security, focusing on the defense of the state from external attack, the issue of human security which is about protecting individuals from any form of violence cannot be over emphasized. The new concept of security must equate security with people rather than territories. Therefore, human security and national security should be and are mutually reinforcing.

V. Recommendations

While efforts are made to prohibit and end torture globally; it has become rather difficult to approach these issues in Nigeria because instead of reducing, cases of torture are on the increase. However, the following recommendations can serve as stepping stones.

1. The Nigerian government should set its priority right. The misplaced culture of rehabilitating repentant terrorist and bandits into the society should stop and this energy geared towards victims of torture, secure justice for victims of torture and compensate/rehabilitate them.
2. Prompt response is needed from the Nigeria government and those who have committed crimes against humanity should be penalized for all the atrocities committed. Law enforcement officials who are found wanting must be made to face the full wrath of the law, to serve as deterrent to others.
3. Police reform - training, education and campaigns.

4. Addressing the challenges of data collection, more empirical data is needed to monitor and determine how frequent violations occur.
5. The use of electronic surveillance, CCTV, can reduce the need for confession-based evidence which leads to torture.
6. Detention safeguards – By ensuring that detainees in police custody or army barracks have access to their families, medical care and lawyers as this is their right.

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