

THE EFFICACY OF THE LEGAL FRAMEWORK FOR THE PROTECTION OF HUMAN RIGHTS: THE CASE OF IKOM L. G. A.

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ABSTRACT

In view of the numerous and incessant abuse of human rights, this work intends to analyse the efficacy of the legal framework for the promotion and protection of Human Rights in Nigeria in relations to the existing international and national laws on Human Rights. The methodology adopted was the Wal- pro-formula where questionnaires were administered to Two hundred and forty eight (248) Ikom residents, to obtain the sample size of 124. However, the Chi-square scientific methodology of data analysis was adopted in order to make valid generalisations. Findings revealed that there is a no significant relationship between human right laws and what is practicably observed, and that there exists a weak institutional framework for human rights protection in Ikom Local Government Area. The work therefore recommends that the role of NGOs, in the promotion and protection of human rights must not only be seen as exclusive but very important and crucial. The work also recommends that both the governmental and non-governmental organizations and institutions should work in unison and ensure that all stipulated human right laws are not only practicable in Ikom Local Government Area

Introduction

The Evolution of the Human Rights Discussion Both academic and practitioner discussions about human rights have increased over the past 20 years Although the number of scholarly articles referencing human rights has declined somewhat since its peak in 2011, the amount of scholarly discussion of human rights today far exceeds its level 15 or 20 years ago. The U. N. sees Human Rights as the Right inherent to all Human beings, regardless of race, sex, nationality, ethnicity, languages, religion, or any other status. Human Rights includes the Right to life and liberty, freedom from slavery, and torture, freedom of opinion and expression, the Right to work and education, etc. The relevance of the observation of these rights has assumed a very remarkable dimension since WW-II when it became clear that the universal respect for Human Rights is a basic necessity for the world peace.

Human Rights are inherent to be benefited by all in the society, and not gifts to be withdrawn, or granted at will or at the discretion of those in authority. In this sense they are said to be inalienably inalienable.

However, after the WW-11, the military dictatorship that followed across the African States, witnessed a sudden emergence of NGOs in Human Rights across Nations, seeking to embraces those civil, economic, political, cultural, social, and solidarity rights regarded as indispensable to a meaningful human existence. These rights are parts of the very nature of human being. Although appeals to the universality, indivisibility, and inalienability of human rights are common, the articulation of specific human rights guarantees is rife with scholarly and political contention. For example, do human rights apply to groups in the same way as

to individuals? These disagreements over definition have important consequences not just for academics but for on-the ground grassroots struggles for human rights.

However, the justification for this research is that ‘Human right’ has become not just a topical issue to Ikom L.G.A alone, but to Cross River State as a whole. It has become the language of both the oppressors and the oppressed. Yet little is known of its meaning because, in practical terms, Human Rights are not fully observed in Ikom L.G.A as the people have witnessed serious breaches of these rights.

This work therefore seeks to identify reasons for the occurrence of these events in relation to the adequacy or otherwise of the provisions of the existing laws in Ikom L.G.A.

Statement of the Problem:

The prevalence of gross insecurity, moral decadence, and the rampant violations of the rights of the people has led to total loss of confidence in government by her citizenry. Most individuals are faced with the option of devising private means for the protection of their personal lives and property.

The questions that begs for answers are; what is the efficacy of the human rights protection, and are the human right laws practicable in Ikom Local Government Area?

Objectives of the study:

The intent of this work is to examine the efficacy of the legal framework for the protection of Human Rights in Ikom Local Government Area. It is hoped that the work will identify the adequacy or otherwise of the existing legal framework and institutional mechanism relating to the protection of human rights, identify the challenges arising from the implementation of the law and the limitation of the institutional mechanism put in place, and attempt to provide practical remedies to the challenges and limitations identified in the protection of human right, and to ensure an efficient observation of such rights in Ikom Local Government Area.

RESEARCH HYPOTHESIS:

The following hypotheses were formulated as working statements for this work:

Hi = There is a significant relationship between human right laws and what is practicably observed in Ikom L.G.A.

Ho = There is a no significant relationship between human right laws and what is practicably observed in Ikom L. G. A.

DIFINITION OF THE TERMS

The following concepts have been defined in the context there are used in this work.

EFFICACY: This implies being efficient, and having the power to produce a required effects. It is also used to mean, the degree to which something is successful in producing a desired result or the degree to which objectives are achieved and the extent to which targeted problems are solved.

HUMAN RIGHTS: Human rights are rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion or any other status. Human rights include the rights to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education, among others.

HUMAN RIGHT LAWS: This refers to the legal principles or norms that describe certain standards of human behaviors and are regularly protected as natural and legal rights in municipal and international laws.

THEORETICAL FRAMEWORK:

The theories that best explicate this work are the theories of cultural relativism and universalism. Cultural relativism with scholars as James Rachels (2003) posited that cultural relativism is founded on the notion that all human rights are dependent on culture and that no universal moral principles can be said to apply to all cultures. Cultural relativism means that traditional practices such as widowhood rites should not be made subject to the international law because it is justified by culture. EPOCHI-OLISE (2008) and BROWN (2008) are of the view that cultural relativism removes any ground for the comparison and checks of cultures thereby

allowing unpleasant circumstances. Cases of human rights supported by culture are often seen as not being the business of the state and outside the scope and jurisdiction of legislative bodies (Coker-Appiah, 2009). On the other hand, the theory of universalism with Jack Donnelly (2013) as a major proponent, has its roots in Article 1 of the UDHR of 1948 which states that “all human beings are born equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood”. According to Donnelly, universalism is based on the idea that all human beings hold rights just because they are human. It draws on the fact that human rights are inalienable regardless of religious views or national status. Donnelly (2017) explains that these theories of universalism and cultural relativism have always been in contrast, but have a common interest in the protection of human rights.

THE LEGAL FRAMEWORK FOR THE PROTECTION OF HUMAN RIGHTS:

Human rights are “the rights one has simply because one is a human being” (Donnelly 2013: 1). Donnelly’s claims draw directly on foundational international human rights documents—such as the Universal Declaration of Human Rights, which grounds its set of human rights in “the inherent dignity and...equal and inalienable rights of all members of the human family.” These foundational international legal guarantees in turn directly inform the understanding of human rights articulated by the UN Office of the High Commissioner for Human Rights (OHCHR) and are drawn on by USAID: “human rights are inherent to all human beings, irrespective of...any other status...generally expressed as universal legal guarantees” (USAID 2016;6). These universal definitions appear straightforward, but that assumption obscures many critical discussions.

Violations of physical integrity rights from government violence or physical oppression are relatively straightforward to conceptualize and define. As exemplified in Blanton’s (1999) work on human rights and the arms trade, the protection of personal physical integrity often serves as a proxy for “human rights” more broadly. If a government is killing its population outside of legal avenues, it is almost undeniably committing a human rights violation. However, human rights are concerned with more than just protecting physical life. For a discussion of human rights beyond physical integrity, a typology based on the Universal Declaration of Human Rights is useful. This typology broadly classifies these rights into categories: political, civil, social, cultural, and economic. These classifications can further be understood as generations of human rights (Vasak 1977). First generation rights were fundamentally political, focused on expanding access to freedoms for all people, and were captured in the International Covenant on Civil and Political Rights (ICCPR). Second generation rights expanded to include the social and economic, focusing on quality of life, as well as just a right to it; these were captured in the International Covenant on Economic, Social, and Cultural Rights (ICESCR). Third generation rights expanded to include the rights of groups and cultural norms—for example “solidarity rights” such as the right to a clean environment and a right to peace (Wellman 2000).

Political and civil rights have long been part of the human rights discourse, and can be divided into two broad categories: rights and freedoms from government abuse, and rights and freedoms to participation. These rights are expressed as individual freedom from government oppression and harm (Dancy and Michel 2016), and often codified as equal protections under the law (Van Wyk 2009). As exemplified in the fight for women’s rights (Cole 2013), a strong institutional codification of individual freedom from government oppression and of the promotion of equality before the law contributes to the success of groups fighting for rights from below. In addition to these rights from government oppression, political and civil rights also include an individual’s right to participate in political and civic life (Koohestani 2011, Hashemi-Najafabadi 2010, Baldwin and Mvukiyehe 2015). Participation in politics and in civic life is a bedrock for preserving and promoting other human rights (Hipsher 1996). Participation holds the government accountable and provides institutional mechanisms to fight for other human rights protections. Civic participation rights also include participation in the legal institutions of society. Economic rights are closely tied to social rights, and frequently framed as freedom from poverty more broadly. The history of economic rights is rooted in the Cold War, as Western economies tried to promote the market economy as a fundamental right,

highlighting the link between poverty and communist economic systems (OHCHR 2016). However, in the post-Cold War era, economic rights have focused more on the consequences of economic hardship on health and life. Poverty carries with it many economic and social ills that violate the human condition (Sen 2001, Rukooko 2010). By using economic rights as a foundation, poverty has been elevated as a human rights issue in the international arena. Social rights encompass the right to an acceptable standard of living. Though closely tied to economic, they go beyond just making an income to include such things as health care, clean air and water, and religious participation. The women's rights movement is frequently associated with social rights (Donno and Russett 2004) aligned with traditional "women's issues" (Joachim 2003). In addition to women's groups, ethnic minorities, religious minorities, and sexual minorities have been involved in the fight for social rights. Cultural rights move human rights from the individual to the collective level. Although they too are individual rights, since they involve an individual's right "to participate in cultural life and to share in and benefit from scientific advancement" (OHCHR 2016, p2), these rights also involve the rights of groups to practice their culture and religion freely. The OHCHR has further identified cultural rights as the right to collectively benefit from human advancement and to participate in those aspects of humanity that "directly impact the common good or common advancement" (OHCHR 2016). Advancements in technology have greatly spurred the advancement of cultural rights, as they have expanded the definition of "public" (Hashemi-Najafabadi 2010) and created outlets for cultural expression.

On prioritizing individual-based rights over group-level rights, Donnelly (2008, 601) opined that "we must be careful not to exaggerate the place of human rights in our political practices because while it prioritizes the rights of individuals, it also draws attention away from the legitimate interests and claims of states, societies, and families." However, collective rights are not always in tension with individual rights, and individual rights can be used to elevate the discourse around and seek attention to collective claims. As highlighted by LGBTQ activists, framing rights as group rights often provides the necessary leverage to elevate rights from being perceived as an individual interest to a human right whose granting would benefit society as a whole (Lax and Phillips 2009).

Yet, collective rights also can compete with each other, such as when religious or cultural groups feel their core beliefs are threatened by collective claims (Wald, Button, and Rienzo 1996). This tension is often at play in both the LGBTQ and women's movements. When a collective group (such as members of a religion) views another group as non-human or otherwise inferior, opposition often arises.

Human rights discourse has moved beyond physical integrity rights to include a much broader rights range. Carl Wellman's (2000) assessment of the state of human rights discourse posited that concern for human rights would be a defining characteristic of 21st century politics. Human rights certainly have taken center stage in the early part of the 21st century. Many polities have elevated human rights to the forefront. For example, the EU requires, as a condition of membership, that states adopt minority rights norms (Swimelar 2008). Such rights carry nearly as much weight in the EU as state-based security. Indeed, the fact that military intervention has been used to protect human rights (Bellamy 2008) underscores the degree to which human rights have been elevated on the international political stage. Moreover, the discussion of human rights has expanded to include nonstate actors. The UN Human Rights Council, for example, unanimously adopted the Guiding Principles on Business and Human Rights, in 2011. The response to the increase in human rights discourse has not all been positive. Most of the backlash has focused on the "Western" concept of human rights. While the origins of human rights are universal, "human rights" often have been defined by Western norms, especially those related to religion and gender norms (Stammers 1999, Jones 1999). Although the human rights discourse certainly has expanded in the past 20 years, many groups have rejected some of its components as a form of Western cultural imperialism. Baer and Gerlack (2015) highlight how non-Western societies often have rejected Western rights' frames, favoring their own conception of rights and rights discourses.

Broadly speaking, there are at least two main types of actors in human rights struggles: those who fight for human rights; who are often, but certainly not always, those whose rights are at stake; and the targets of this

pressure for human rights who may be a state or non-state perpetrator of human rights violations, or a state that has failed to protect citizens from a perpetrator.

METHODOLOGY AND DATA ANALYSIS:

RESEARCH DESIGN:

This is the set of methods and procedure used in collecting and analyzing measures of the variables specified in the problem research. The work adopted the survey design because it is highly concern with finding describing and interpreting the existing conditions. It is also descriptive because it involves little manipulation and control of variables.

POPULATION OF THE STUDY

The population of this study was drawn from youths and the adults in Ikom Local Government Area. Which include all the eleven political wards in Ikom Local Government Area. This include Two hundred and forty eight [248] use as my sampling research. Although, the population size of Ikom Local Government Area is about 213,8-55 at April 1st 2010 census. The researcher uses simple random sampling techniques which divided the population into stratum selection from the sampling size, to know those whose rights have been abused and those people who abuse other people right. Primary and Secondary data was used. The reason for this choice of primary data was to ensure direct gathering of information from the respondents. This was done through questionnaires, personal interview and discussion or interaction with the legal practitioners or law institution (both governmental and non-governmental). For the purpose of this research, Two hundred and forty eight [248] respondents from the eleven political wards in Ikom Local Government Area of Cross River State were randomly selected. Ten from each ward and fourteen from the administrative staff of the Local Government Council. This constitute the sample frame/formula of the work (n=sample).

INSTRUMENT OF DATA COLLECTION & ANALYSIS:

The techniques of data analysis adopted for this study was stratified method. In the cause of carrying out this research, both primary and secondary source of data were adopted. The secondary source of data used include relevant literature from both hard and soft copies. The research used the stratified method because the researcher divides the population into different or separate groups in order to obtain a quality data. The stratified frame was used to check whether significant relationship exist between the two variables concerned.

The structural questionnaire comprises carefully design questions for respondent were used, as it is easy to analyze, and also allows greater uniformity in the way questions are asked, as well as ensure greater understanding in responses.

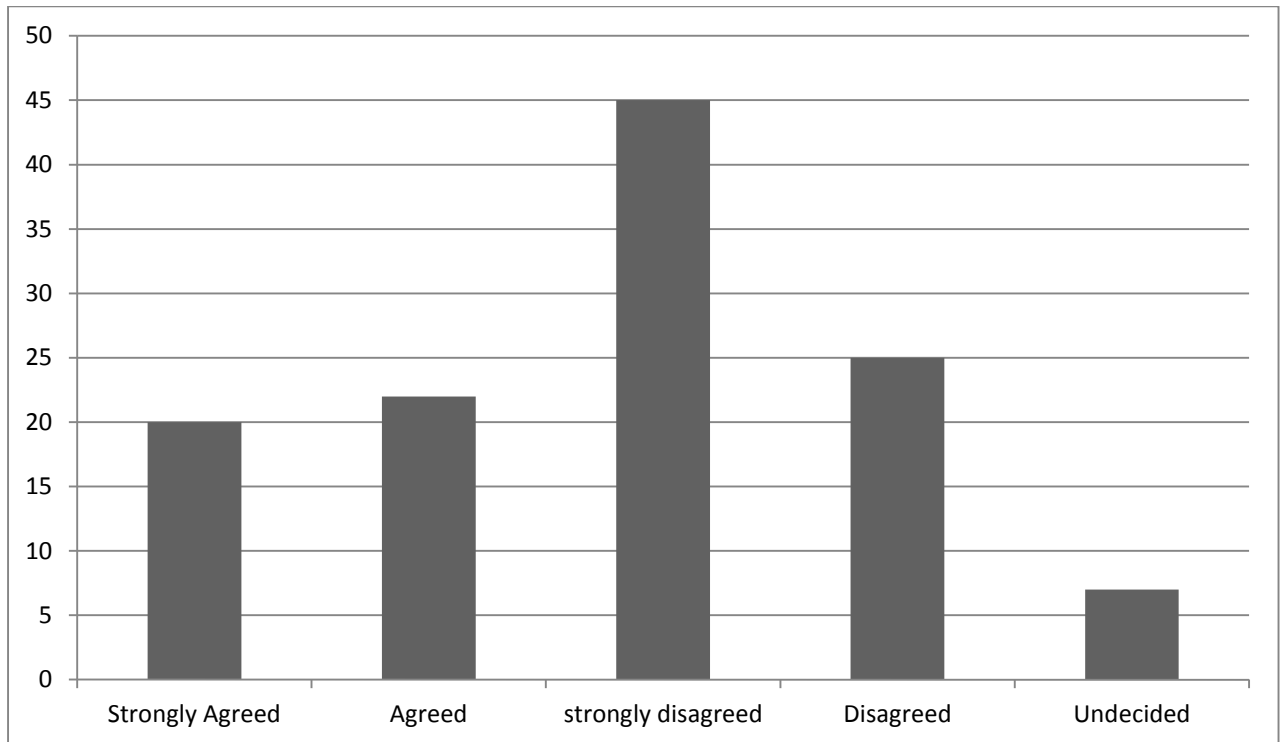
A total number of Two hundred and forty eight (248) people in Ikom Local Government Area were estimated where wal pro-formula was adopted to obtain the sample size of 124 (i.e- wal pro-formula $N/2$, where n=total population= $\frac{248}{2} = 124$). The sample size of 124. However, the Chi-square scientific methodology of data analysis was adopted in order to make valid generalisations.

Testing of hypotheses:

Are human right laws actually observed in Ikom Local Government Area?

Variables	Responses	Percentages
Strongly agreed	20	16.13%
Agreed	22	17.74%
Strongly Disagreed	45	36.29%

Disagreed	25	20.16%
Undecided	12	9.68%
TOTAL	124	100



The above table shows the response from the respondents that are resident in Ikom Local Government Area, where 20(16.13%) strongly agreed, 22(17.74%) agreed, 45(36.29%) strongly disagreed, 25(20.16%) disagreed and 12(9.68%) undecided.

Also the bar chart distribution is more explicit on the subject as majority of people residing in Ikom Local Government Area strongly disagreed with the subject, implying that though human rights exist, there are not functional as they are most often not observed.

From the above, the scientific Chi-square methodology is used for the analysis. The formula for the Chi-Square is as follows-

$$X^2 = \left\{ \left(\frac{f_o - f_e}{f_e} \right)^2 \right\}$$

X²=Chi-Square

F_o = Observed Frequency

F_e=Expected

{=Summation

F _o	F _e	F _o -F _e	(F _o -F _e) ²	$\left(\frac{F_o - F_e}{F_e} \right)^2$
20	24.8	-4.8	23.04	0.93
22	24.8	-2.8	7.84	0.32
45	24.8	20.2	408.04	16.45
25	24.8	0.2	0.04	0.002

12	24.8	-12.8	163.84	6.61
124	124			24.32

$$nm_xc2 = \left\{ \left(\frac{f_o - f_e}{f_e} \right)^2 \right.$$

$$x_c2 = 24.32$$

To calculate degree of freedom

$$df = n - 1$$

$$df = 5 - 1$$

$$df = 4$$

At df 4 at 0.05 (5%) level of significance

$$X^2_4 \text{ at } 0.05$$

$$X^2_1 = 0.002$$

Therefore, $X^2_1 = 0.028$

Chi-Square calculated $X_c^2 = 24.32$ and Chi-Square tabulated ($X^2_1 = 0.028$)

When $X_c^2 > X^2_1$, Accept H_1 , Reject H_0

$X_c^2 < X^2_1$, Accept H_0 , Reject H_1

From the above calculation $X_c^2 = 24.32$ while $X^2_1 = 0.028$

Since Chi-square calculated value is greater than the Chi-square tabulated values, the null hypothesis: H_0 = which states that there is a no significant relationship between human right laws and what is practicably observed in Ikom L. G. A. is accepted, while the alternate hypothesis: H_1 = which states that there is a significant relationship between human right laws and what is practicably observed in Ikom L.G.A. is hereby rejected.

From the above analysis, findings revealed that the inefficiency and ineffectiveness of the government to intercede on behalf of the oppressed when their rights are abused is a major blow to human rights defense. There exists a weak institutional framework for human rights protection in Ikom Local Government Area. Effective enforcement of human rights largely depends on the domestic machineries of the national government. It is for this reason that major international human rights instruments mandate state parties to take appropriate domestic measures to ensure the realization of the rights proclaimed. Although Nigeria, in recognition of its obligation as a signatory to major human rights instruments, has established relevant institutional mechanisms such as the courts and the National Human Rights Commission for human rights protection, regrettably, the mechanism are weak, and incapable of providing strong and effective platform to meaningfully discharge their mandates.

Findings also revealed that the Non favourable political environment for NGOs human rights protection activities is another hindrance. It is no exaggeration to say that Nigerian's political environment is not only non-receptive, but very hostile of criticisms, even constructive ones. The role of human rights NGOs often constitutes irritation to governments for obvious reasons.

The work also revealed that financial constraints on the part of the NGOs in Nigeria is also a problem. Without doubt, the human rights protection activities of the NGOs require funding for any meaningful results. Many human rights activists in Nigeria, like their counterparts across the globe, are not men and women of means and affluence such that they can finance the activities of their respective NGOs from personal donations.

CONCLUSION AND RECOMMENDATIONS:

The justification for this research is that "human rights" has become not only a topical issue in Ikom Local Government Area, but the language of both the oppressors and the oppressed. Yet little is known of its meaning and ramifications because practically, human rights are not fully observed in Ikom Local Government Area.

The need for multifarious strategies and approaches to protection of human rights in Ikom Local Government Area was also observed in the course of the work. In order to ensure effective implementation of human rights, wide-ranging strategies and approaches are required. Indeed, there is no enforcement mechanism which can exclusively and adequately ensure optimal human rights protection. This, thus make the role of NGOs, in the promotion and protection of human rights not only exclusive but very important and crucial.

Impediments to the effectiveness of human Rights NGO is also an observation in the course of the research. Without doubt, human rights NGOs in Nigeria have not been able to fill the gap created by the near absence of executive agencies in human rights promotion and protection. There are some constraints in the efforts of NGOs in Nigeria towards the protection of human rights among which is access to justice. Access to justice connotes the availability of accessible affordable, comprehensible justice system and the dispensation of justice fairly, speedily and without fear and favour. The issue of access to justice is a significant constraint to the effectiveness of human rights in NGOs. Access to justice has been denied through the use of what has been termed “negative legal” and “access curtailing devices” such as ouster clause, Limitation Acts, protection of public officer from suits, the doctrine of state immunity and dragon of *Locus Standi*. The doctrine of *Locus Standi* constitutes a formidable if not insurmountable impediment to human rights NGOs in Nigeria.

The only way human right law will be adopted and observed completely in Ikom Local Government Area, is for both the governmental and non-governmental legal organizations or institutions to work hand in hand and ensure that all stipulated human right laws are not only practicable in Ikom Local Government Area but the laws are also active so that the rights of people or even a common man will not be abused.

Various governmental and quasi-governmental bodies established in Nigeria should ensure human rights promotion and protection are strengthened and made efficient and effective by specific regulatory Act. The Human Rights Commission especially must be further empowered legislatively to be able to adjudicate and give binding verdicts on issues bothering on human rights violations.

The Non-Governmental Human Rights Organizations in Ikom local Government Area must act as Human Rights Protectors that they are. The National Assembly should protect all Human Rights NGO on issues that relates to violation of human rights anywhere in Ikom Local government Area, such that the NGOs can institute action for human rights violation on behalf of victim(s) without hindrances.

NGOs in Ikom Local Government Area should be proactive in their human rights protection agenda. There should be a deliberate outreach to the rural communities where structural inhibitions account for gross human rights violations than experienced in urban areas. Human rights NGOs have mostly concentrated in urban centers and they often denounce human rights violations without offering suggestions. This limits their scope and value.

It is therefore suggested that human rights NGOs must offer constructive suggestions in appropriate cases on how things can be done differently. Consequently, the NGOs must designed and pursue a more pragmatic and result oriented way of advancing the cause of human rights in Nigeria.

As regards issue of funding, NGOs in Ikom Local Government Area should strengthen their relationship with their counterparts in national level, abroad and United Nations through some of its agencies e.g. World Health Organization (WHO). Grants from these international bodies which have over the years proven their strong dedication to promotion and protection of human rights will become handy.

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