SACREDNESS OF LIFE AND HUMAN DIGNITY IN THE LEGAL PROFESSION: NIGERIAN EXPERIENCE

E.N. MGBEMENA (PhD)
Madonna University,
Okija Campus, Nigeria.

Abstract:
The World was faced with holocaust, after the end of the World War II, committed by Adolf Hitler of Germany, which was the systematic attempt of the German authorities to kill every Jew no matter where they were found and to destroy them as a group. The murder was about 6 million Jews, that were killed. This prompted the World through the United Nations to act and to make genocide an international crime and to bring the perpetrators to justice. The United Nations General Assembly in Paris on 10th December, 1948, evolved a milestone document in the history of human rights as resolution 217A as a common standard of achievement for all nations. It is set out as Fundamental Human Rights to be universally protected. It is named UNIVERSAL DECLARATION OF HUMAN RIGHTS to be observed by all nations of the world and especially all member nations. The Convention on Prevention and Punishment of the Crime on Genocide was approved and signed into law by the International Criminal Court (ICC) in 1948. The Convention and ICC statute defined genocide as a crime with intention to destroy, in whole or in part, ‘national’, ‘ethical’, racial, or religious group as such. It is essential, that man is not compelled to have rebellion as last resort against tyranny and oppression that all human rights should be protected by the Rule of Law, without which, genocide, oppression, racism, tribalism, sexism, slavery and all kinds of barbaric activities such as rape, torture, terrorism, homosexuality and lesbianism would solidify in the society. Genocide is one of the worst moral crimes that any authority, guerilla group or a terrorist organization etc. can commit against her people or her citizens. In the topic, we shall discuss the Fundamental Human Rights as enshrined by the United Nations General Assembly in the Universal Declaration of Human Rights. The neglect of this by various nations of the world has resulted in catastrophic disasters, inhumanity of man towards another, deaths, hunger and starvations, genocides, tyranny and oppressions, etc. This work looked into such episodes, the defaults, and repercussions, solutions were proffered for the prevention of future occurrences. Nigeria as a member of United Nations passed 1979 Constitution, as amended, containing Fundamental Human Rights at chapter IV Sections 33 - 43 thereto, with provisions to save guard human life and dignity and equally passed African Charter on Human and Peoples Rights of October 21, 1981 and known as ‘African Charter on Human and Peoples Rights (Ratification and Enforcement Act, 2004). This Charter is at par and consistent with similar Charters which are, in existence in Europe and America. Anyone seeking to enforce Fundamental Rights provisions of the Nigerian Constitution, also, may rely on the provisions of the African Charter on Human and Peoples Right. All these provisions and Laws were geared towards preservation of life, dignity of human life and sacredness of life.

KEYWORDS: Sacredness, Human Dignity, Legal Profession, Nigerian Experience.

Introduction
The world was faced with holocaust, after the end of the world war II, which was the systematic attempt of the German authorities to kill every Jew no matter where they were found and to destroy them as a group. They murdered about 6 million Jews. This prompted the world through the United Nations to act and to make genocide an international crime and to bring the perpetrators to justice. The United Nations General Assembly in Paris on 10th December, 1948, evolved a milestone document in the history of human rights as resolution 217A as a common standard of achievements for all nations. It is set out as Fundamental Human Rights to be universally protected. It is named UNIVERSAL DECLARATION OF HUMAN RIGHTS to be observed by all nations of the world and especially all member nations. The Convention on Prevention and Punishment of the Crime on Genocide was approved and signed into law by the International Criminal

Court (ICC) in 1948. The Convention and ICC statute defined genocide as a crime with intention to destroy, in whole or in part, ‘national’, ‘ethnical’, racial, or religious group as such.

**UNIVERSAL DECLARATION OF HUMAN RIGHTS (UDHR)**

To achieve Sacredness of life and human dignity – the United Nations General Assembly in Paris on 10th December, 1948, through their representatives drafted and passed a legal document known as **Fundamental Human Rights** to be universally protected. To this end, United Nations in the General Assembly proclaims - 'The Universal Declaration of Human Rights’ as a common standard of achievement for all people and all nations, that every individual and organ of society, keeping this Declaration constantly in mind shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international to secure their Universal and effective recognition and observance, both among the member states themselves and among their jurisdiction.

These member states and peoples of United Nations have in the Charter reaffirmed their faith in Fundamental Human Rights and in the dignity and worth of human person and in equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom.

On this, all member states of United Nations have pledged themselves to achieve, in co-operation with United Nations the promotion of universal respect for and observance of human rights and fundamental freedoms. The common understanding of these rights and freedom is the greatest importance for the full realization of this pledge.

**Articles 1 – 10** out of the **30** articles of the **United Nations Declaration of Human Rights** shall be discussed with a view of understanding the legal protection of life, human dignity and freedom in order to achieve the sacredness of life and human dignity within the legal profession.

**Article 1** – states that, ‘All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.’ This is a lofty provision, and is commonly violated by many nations of the world. This is done through inhuman treatment such as slavery and other barbaric acts and crimes.

**Article 2** – states that, ‘Everyone has the right to life, life and security of person. This also is widely abused – out of the **30** articles of the United Nations Declaration of Human Rights, the articles of the **Article 2** is also mostly violated by many nations of the world through tribalism and/or racism. Tribalism in African Continent, while Racism in Europe or white man’s land generally.

What is tribalism? – is culture or relationship or tribal organization. It is a social philosophy, which is based on the construction of a series of imaginary boundaries which establish the ‘us’ and ‘them dichotomy.

What is Racism? – is an excessive and irrational belief in or advocacy of the superiority of a given group, people or nation. Also, it is a social philosophy, is based on the construction of a series of imaginary boundaries which establish the ‘us’ and ‘them dichotomy. It is, also, as in tribalism ‘a social philosophy, which is based on the construction of a series of imaginary boundaries which establish the ‘us’ and ‘them dichotomy.’ It is on this dichotomy, that each ethnic group assumes and appropriates aggressive posture towards ‘them’ beyond the so conceived boundary. It is the persistence in our actions and in our reflexes that fosters tribalism in Nigeria and racism in the white man’s land.

What is Sexism? – is a sexual prejudice or discrimination against women, it is just like racism.  

**Article 3** – states that, ‘Everyone has the right to life, life and security of person. This also is widely abused in many nations of the world through extra – judicial killings. The people and citizens of many nations are not sure of their life and property due to BOKO HARAM’s insurgents in Nigeria, **Islamic Jihadists in SYRIA and IRAQ** – Islamic State of Iraq and Levant (ISIL) and Al QAEDA decimating and killing innocent people in the area. Their nefarious activity was carried into United State of America on 2nd

---


5(Ojukwu, Emeka, 20)

September, 2011 by destroying the twin house and killing innocent people and the citizens of the United States of America.

Article 4 – states that, No one shall be held in slavery or servitude, slavery and slave trade shall be prohibited in their forms. Today slavery is the order of the day, and is being practiced in different forms in different parts of the world. People are sold for sex in many parts of the world. Boko Haram in Nigeria sold many Chiboks girls and other women into slavery, either for sex or for servitude.

Article 5 – states that, ‘No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. This provision is widely abused by force operatives both in Nigeria- like in kirikiri prison also in other prisons, equally in United States of America, the Guantanamo Bay prisons. In the prison detention homes, human rights are mostly violated by those people who are meant to preserve law and order and the rule of law.

Article 6 – states that, ‘Everyone has the right to recognition everywhere as a person before the law. This provision, reiterates the doctrine of Rule of Law and equality of all persons before the law irrespective of gender and political position and affiliation.

Article 7 – states that, ‘All persons are equal before the law and are entitled without any discrimination to equal protection of law. All are entitled to equal protection against any discrimination and against any incitement in such discrimination.

Article 8 – states that, ‘Everyone has the right of effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9 – states that, ‘No one shall be subjected to arbitrary arrest, detention or exile. In Nigeria, the case of Attorney of Federation v. Darman Shugaba of Bornu State facing deportation from Nigeria by the executive arm of the government as a non indigene was resisted through the legal process and the said deportation order was stopped, Shugaba regained his citizenship as a Nigerian. Recently some Judges of the Apex Court of Nigeria were arrested and detained by the executive arm of Nigerian Government against what is known as due process and against the above provision.

Article 10 – states that, ‘Everyone is entitled to full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Nigerian factor/Experience

Nigeria as a member of the United Nations is bound by the United Nation Universal Declaration of Human Rights, Resolution 217A of 10th December 1948, in furtherance to the said resolution 217A and to preserve life and human dignity; Nigeria passed 1979 and 1999 Constitutions to protect life, and to set that the sacredness/sanctity of life, and human dignity is maintained, these are contained in chapter IV, sections 33 to 43 of the 1999 Constitution, equally there are other Laws of the Federation of Nigeria that takes care of and preserve human life and dignity as enacted in the Criminal code of the Federation of Nigeria.

Fundamental Human Rights under chapter IV of the Constitution of Nigeria are sacrosanct and not liable to be abridged by any legislature or executive act or order, except to the extent provided for in the appropriate section in Part IV of the same Constitution. Fundamental rights guaranteed in chapter IV of the constitution were specifically designed and intended to limit the powers of the executive and the legislative both of the National and State Levels.

All these rights/freedoms, from the right to life, right to personal liberty, right to freedom of expression, thought, conscience and religion, right to lawful assembly and association are vital to human existence and democracy and cannot be waived

In section 33(1) of 1999 Constitution provides that “Every person has a right to life, and no one shall be deprived intentionally of his life, save in execution of the sentence of a court in respect of a criminal offence of which he has been found guilty in Nigeria”, and in section 34 (1) Every individual is entitled to respect for the dignity of his person and accordingly –

(a) No person shall be subjected to torture or to inhuman or degrading treatment;
(b) No person shall be held in slavery or servitude; and
(c) No person shall be required to perform force labour or compulsory labour.

1999 Constitution enshrined other rights that would protect life and human dignity such as:-

(d) Section 35 - right to personal liberty,

8 (Chuks Okpalauba, 1992).
Section 36 – right to fair hearing,
(f) Section 37 – right to private and family life,
(g) Section 38 – right to freedom of thought, conscience and religion,
(h) Section 39 – right to freedom of expression and press,
(i) Section 40 – right to peaceful assembly and association,
(j) Section 41 – right to freedom of movement,
(k) Section 42 – right to freedom of discrimination and,
(l) Section 43 – right to acquire and own immovable property anywhere in Nigeria.

The Chief Justice of Nigeria was empowered by the said constitution to provide the rules and procedure to guide the enforcement of these rights when it is breached by either the government or by an individual.

Sacredness/Sanctity of Life

Generally the Almighty God created man and found that man is jealous and desperately wicked. The first murder was recorded in the Holy Bible, where Cain was jealous of his brother Abel and killed him. It was recorded accordingly - In Genesis 4 v 8 – And Cain talked with Abel his brother: and it came to pass, when they were in the field, that Cain rose up against Abel his brother, and slew him.

Then the Judgment, Sentence and Punishment of God came on Cain in the succeeding verses 9 -10 as follows:-

- Genesis 4 v 9 – and the Lord said unto Cain, where is Abel, thy brother? And he said, I know not: Am I my brother’s keeper?
- Genesis 4 v 10 - and God said, what has thou done? The voice of thy brother’s blood crieth unto me from the ground;
- Genesis 4 v 11 – and God said now art thou cursed from the earth which hath opened her mouth to receive thy brother’s blood from thy hand;
- Genesis 4 v 12 – When thou tillest the ground, it shall not hence forth yield unto thee her strength; a fugitive and vagabond shalt thou be in the earth.9 The Lord after the first murder perpetrated by Cain on Abel gave an order and commandment in Exodus 20 v 13 - thou must not kill10.

After the Cain’s episode of murdering his brother Abel in cold blood, the Lord ordered through the 10 commandments in the Holy Bible as follows:-

- Exodus 20 v 13 – thou shalt not kill;
- Exodus 21 v 12 – He that smiteth a man, so that he die, shall be surely be put to death.
- Leviticus 24 v 17 – And he that killeth any man shall surely be put to death.

From the time of Adam and early creation, any kind of killing and waste of human blood is an abomination before God and Man. Any unlawful killing of any kind attracts death penalty and/or manslaughter as the case may be, against the accused. Murder is a capital offence and the punishment is death penalty, because it is unlawful to terminate a human life.

In Nigeria and other nations of the world – It is not unlawful to kill any person on the execution of a Court sentence, see Section 254 of the Criminal Code which provides that it is lawful for a person who is charged with the duty of executing or giving effect to a lawful sentence of a Court (including a native tribunal) to execute or give effect to that sentence.

In Nigeria, Sections 307, 315, 316, 319 and 325 of the Criminal Code provides for homicides and enacted as follows:

*Section 307 of the Criminal Code* provides that – a child becomes a person capable of being killed when it has completely proceeded in a living state from the body of its mother, whether it has breathed or not, and whether it has an independent circulation or not and whether the naval string is severed or not.

*Section 315 of the Criminal Code* provides that any person who unlawfully kills another is guilty of an offence which is called murder or manslaughter according to the circumstances - of the case. In the case of *R v Castles*11 - It was held that “though death resulted but accused had no intention to kill the deceased, hence the accused was guilty of manslaughter.

---

9 Holy Bible, KJV -10.
10 Ibid, p. 95.
Section 316 of the Criminal Code provides that Murder is most grievous kind of homicide and defined it as follows:

‘Except as hereinafter set forth, a person who unlawfully kills another under any of the following circumstances, that is to say:

1. If the offender intends to cause the death of the person killed, or that of some other person;
2. If the offender intends to do the person killed or some other person some grievous harm;
3. If death is caused by means of an act in the prosecution of an unlawful purpose, which acts of such nature as to be likely to endanger life;
4. If the offender intends, to do grievous harm to some person for the purpose of facilitating the commission of an offence which is such that the offender may be arrested without warrant, or for the purpose of facilitating the flight of an offender who has committed or attempted to commit any such offence;
5. If death is caused by administering any stupefying or overpowering things for either of the purposes last aforesaid;
6. If death is caused by willfully stopping the breath of any person for either of such purposes; is guilty of murder.

Section 325 of the Criminal Code provides that any person who commits the offence of manslaughter is liable to imprisonment for life.

There are three arms of the Government, the Executive, the Legislative and the Judiciary. The Judiciary is meant to interpret the laws, through the ordinary courts of the land - section 6 (1) - (6) of the 1999 Constitution of Nigeria, as amended spelt out the powers of the Court.

In the case of Aliyu Bello & Ors v. Attorney General of Oyo State, this case was an executive disregard of life – One Nasiru Bello was convicted of armed robbery and sentence to death by High Court of Oyo State by firing squad. The agents of the State Government, while his appeal was pending in the Court of Appeal, executed the accused by firing squad. The premature execution of the deceased triggered litigation by his dependents claiming damages for illegal killing of their “breadwinner”. That the right of the deceased was in fact violated by Oyo State Government.

In the case of R. v Jegede, members of a night guard killed a notorious thief whom they alleged was carrying stolen goods and was armed. Convicting them of manslaughter, the Court pointed out that verdict would have been that of murder but for the fact that the evidence of deliberate killing was not clearly established.

In the case of Alliechem, the accused found his neighbor in his barn at night and wrongly believing him to be a thief, the accused stabbed him in the stomach and he died. The accused was convicted of murder because he dealt the blow with intention to kill or to cause grievous harm. It is submitted that even if the deceased was in a fact a thief the conviction for murder would still be correct.

Consent to Death

Consent by a person to the causing of his own death does not affect the criminal responsibility of any person by whom such death is caused: In the case of State v. Okezie, the accused, a native doctor, prepared charms for the deceased. The deceased then invited the accused to test the charms on him by firing shot at the chest and killed him. He was convicted for murder.

Rule of Law

is a doctrine that all men are equal before the law, whether they be official or not, so that the acts of the officials in carrying out the behest of the executive government cognizable by the ordinary courts and judged by ordinary law, as including any special powers, privileges or exemptions attributed to the state by prerogative or statute.

These are four major principles of rule of law:

- The government and its officials and agents are accountable under the law.
The laws are clear, publicized, stable and fair, project fundamental rights, including the security of persons and property.

The process by which the laws are enacted, administered and enforced is accessible, fair and efficient.

Justice is delivered by competent, ethical, independent representatives and neutrals, who are of sufficient number, have adequate resources, and reflect the makeup of the communities they serve.

The principles address the extent to which a country provides for fair participation in the making of the laws—certainly an essential attribute of self-government. But the principle does not address the further questions of whether the laws are enacted by democratically elected representatives. The principles address the extent to which a country protects fundamental rights. But given the responsibility of accessing adherence to the full panoply of civil, political, economic, social, cultural, and environmental rights recognized in the Universal Declaration of Human Rights, treat a more modest menu of rights primarily civil and political, which are firmly established under international law and bear the most immediate relationship to rule of law concerns.

The principle addresses access to justice, but chiefly in terms of access to legal representation and access to courts, rather than in the thicker sense in which access to justice is sometimes seen as synonymous with broad legal empowerment of the poor and disenfranchised. Delivery of justice in this more limited sense is a critical cornerstone for the implementation of policies and rights that empower the poor. The above indices of rule of law checks the daily lives of ordinary people, for instance, the index evaluates whether citizens can access public services without the need to bribe a government officer, whether a basic dispute among neighbors or companies can be resolved peacefully and cost effectively by an independent adjudicator and whether people can conduct their activities without fear of crime or police abuse.

**Human Dignity**

*Section 34 (1) of 1999 Constitution of Nigeria provides* - Every individual is entitled to respect for the dignity of his person and accordingly –

(a) No person shall be subjected to torture or to inhuman or degrading treatment;
(b) No person shall be held in slavery or servitude; and
(c) No person shall be required to perform force labour or compulsory labour.

Also Articles 5, 6, and 7 of the United Nation Universal Declaration of Human Right of 1948 - provides in

*Article 5* – states that, ‘No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. This provision is widely abused by force operatives both in Nigeria-like in Kirikiri Prisons and in United States of America, the Guantanamo Bay prisoners. In the prison detention homes, human rights are mostly violated by those people who are meant to preserve law and order and the rule of law.

*Article 6* – states that, ‘Everyone has the right to recognition everywhere as a person before the law. This provision, reiterates the doctrine of Rule of Law and equality of all persons before the law irrespective of gender and political position and affiliation.

*Article 7* – states that, ‘All persons are equal before the law and are entitled without any discrimination to equal protection of law. All are entitled to equal protection against any discrimination and against any incitement in such discrimination.

Human Rights are widely abused in many nations of the world including Nigeria. In every democracy and/or any government that is in power, **Rule of Law** is the yardstick of measurement, which is simply the doctrine that all men are equal before the law, whether they be official or not, so that the acts of the officials in carrying out the behest of the executive government cognizable by the ordinary courts and judged by ordinary law, as including any special powers, privileges or exemptions attributed to the state by prerogative or statute.

- The government and its officials and agents are accountable under the law.
- The laws are clear, publicized, stable and fair, project fundamental rights, including the security of persons and property.
- The process by which the laws are enacted, administered and enforced is accessible, fair and efficient.

---

19 The World Justice Project/Rule of Law Journal, 2012/2013, pp. 8-10
Justice is delivered by competent, ethical and independent representatives and neutrals, which are of sufficient number, have adequate resources, and reflect the makeup of the communities they serve. When these indices are absent in the governance, such leaders or such incumbent that is in power, is short of democratic governance and can be considered as a dictator. Rule of law is not a western idea, nor is it linked up with any economic or social system. As soon as you accept that man is governed by law and not the whims of men, it is the rule of law. It may be different from one country to another.

Conclusion
Rule of law must be observed by every nation and where the freedom of an individual is curtailed or abridged, it must be shown that such act is brought within the confines of law. The courts and/or judiciary must be independent of the executive and legislative arms of the government, in order to uphold justice and rule of law in Nigeria, and to prevent oppression, tyranny, genocide, racism, abortion, sexism, tribalism, servitude, and slavery, torture, terrorism, rape, homosexuality, lesbianism and compulsory labour in our society, which were such sins and act of Sodom and Gomorrah hence they were punished.

Recommendation
There are abuses of human rights here and there all over the world, at least since 1990’s, against the move towards the preservation of the rule of law and democracy. Therefore every country must strive to embrace the rule of law in order to live peacefully and a rule of law is the basis of political, social and economic stability especially in Nigeria and any other civilized nation of the world.

References
Okpalauva, Chuks, Judicial Approach to Constitutional Interpretation in Nigeria, p. 298, Matt Madek, 1992
Okonkwo and Naish, Criminal Law in Nigeria, Spectrum Books Ltd, Ibadan, 1992,

Journal

Internet Materials.