

Colonial and Post-Colonial Human Rights Violations in Nigeria

Dr. Alka Jauhari

Assistant Professor

Department of Government and Politics, Sacred Heart University

5151 Park Avenue, Fairfield, CT 06825

United States of America

E-mail: jauharia@sacredheart.edu, Phone: 203-365-4754

Abstract

Nigeria has a long history of violation of human rights. It is commonly believed that human rights violations in Nigeria have colonial roots. In an effort to consolidate and expand their power, the British colonial masters grossly violated the rights of the people in Nigeria. But even 50 years after independence, the Nigerian citizens continue to face constant violations of their basic rights. After independence, Nigeria has experienced a mix of periods of military and civilian rule. The military rule in Nigeria became a symbol of complete authoritarianism. After every military coup, the government suspended the constitution and, thus, absolved itself of the accountability towards its people. Similarly, the civilian rule also came to be characterized by the institutional failure in observing people's rights. In order to hold on to power the civilian leaders denied freedom of expression, practiced unlawful and extra-judicial killings and rigged elections. The purpose of this paper is to compare the colonial and post colonial human rights violations in Nigeria and shed light on the worsening human rights situation after independence as compared to the colonial period.

Key Words: Colonial, Military, Civilian, Human Rights, Political, Rule, Law, Representative, Government

Introduction

Nigeria gained independence from the British in 1960. In the initial decades after independence, the Nigerian leadership alternated between civilian rule (1960-66, 1979-83 & 1999 onwards) and military rule (1966-79 & 1983-99). The reason behind Nigeria's checkered political history is that it inherited a broken society from the British at the time of its independence. The British rule was established in Nigeria in 1861 with the proclamation of Lagos as a British colony. The British, however, desired to expand their political and commercial influence in the region. The British expansionism sowed the seeds of division and conflict in Nigeria by bringing together people from different regions and also from different religious and ethnic affiliations, under one political umbrella.

After independence, the first civilian government, guided by its own political ambitions, made no attempts to bridge this divide. The divisions were further deepened as a result of the growing infighting between the various groups for gaining political control. The ensuing political instability, paved the way for the first military coup in 1966. In the 50 years of independence, Nigeria has spent 29 years under the military rule because of the failure of the civilian leadership to bring the society together. The civilian rule finally returned in 1999. Although the civilian rule this time has lasted for more than a decade, the stability of the government is constantly being challenged due to the continued division of the society and the resulting violence and conflict. The divisions within the Nigerian society are undoubtedly a colonial legacy but the bitter truth is that these divisions have resulted in the human rights to be violated with greater impunity in the post-colonial period, during the military and the civilian rule, as compared to the colonial period.

At the time of the inauguration of the civilian President, in 1999, it was hoped then that Nigeria would better its human rights record by improving the plight of its citizens after its harsh experience with the military rule in terms of the observance of the human rights. But to the dismay of its citizens and to the chagrin of its leaders, human rights have continued to be violated under the successive democratic civilian regimes as well. Human rights are the basic privileges of individuals and seek to protect dignity and enable a fulfilling life. These rights can be put into two categories: civil and political rights and the socioeconomic rights. Civil and political rights include the right to life and liberty, upheld through the observance of the rule of law - supremacy of law and equality before law - and the right to self-determination. The socioeconomic rights include the right to food, shelter and basic health care. In this paper, the record of human rights in Nigeria will be evaluated from the point of view of the recognition of individual's civil and political rights during the colonial and post colonial periods.

Considering Nigeria's patchy post-independence political history, it will be pertinent to compare the observance of the civil and political rights during the colonial and military era (Section I) as well as during the colonial and civilian periods (Section II). These rights will be compared in terms of the observance of "Rule of Law" (I.I & I.II) and the establishment of a "Representative Government" (II.I & II.II). The paper will also shed light on the future prospects of the observance of these rights in Nigeria (Section III).

I. Colonial Rule and the Military Rule

Ever since the first military intervention in 1966, each military regime in Nigeria has circumscribed the rights of the people by violating the rule of law and undermining democracy.

I.I. Rule of Law

Both the colonizers and the military rulers treated the Nigerians as their subjects. Both used violence to suppress dissent. But relatively speaking, the colonizers observed the rule of law better than the military rulers. The rationale for this attitude, according to Ibhawoh, was to make the "foreign rule more enduring." (2007 "a") The British observed the rule of law and practiced accountability only to make the British rule look less oppressive. On the contrary, under the military rule after independence, arbitrary authoritarianism became the law of the land. Rule of law was suspended, with the suspension of the Constitution and the replacement of the civilian courts by the military tribunals. Members of these tribunals were military leaders who had very little knowledge of the law.

The pinnacle of this authoritarianism was observed during the military rule of Abacha (1993-1998) with the public execution of Ken Saro Wiwa and other eight non-violent human rights activist from Ogoni on trumped up charges. The colonial system of law was relatively less authoritarian. The 1933 judicial reforms, initiated by the colonialists, extended the principle of legal appeal within the judicial system. The local citizens could appeal to the High Court, the Supreme Court and to the West African Court of Appeal. (Ibhawoh 2007 "b") During the colonial rule, all individuals and reporters, charged for seditious acts, were tried under the rule of law. The military junta, on the other hand, followed the practice of closed trials and open executions for sedition. The final blow to the rule of law, during the military rule, came, with the adoption of decree no. 14 in 1994, which suspended the right of "habeas corpus."

I.II. Representative Government

It might seem ironic but the first attempts towards the observance of political rights in Nigeria can be traced to the colonial times. Hugh Clifford, who was appointed the Governor of Nigeria in 1919, realized that the British practice of indirect rule had become an anathema to the local Nigerians and therefore it threatened to challenge their authority. Clifford, therefore, reversed the policy and adopted a key democratic element under the Constitution (the Clifford Constitution, 1922). For the first time the Nigerians elected their representatives as a result of this change. Although the real intent was to create a safety valve to release the pent up feelings of resentment amongst the locals but it led to the creation of a partially representative legislative council under the new Constitution. Three Constitutions that followed the Clifford Constitution, the Richard Constitution (1946), Macpherson's Constitution (1951), and Lyttelton's Constitution (1954), continued to provide greater representation to the people of Nigeria. The Constitutions also brought together the diverse elements of the Nigerian society through the establishment of a federal system of government and through the formation of local political parties. The 1960 Independence Constitution was an outcome of these developments.

After independence, the right to self-determination was granted to the Nigerian citizens through the Independence Constitution and by the subsequent Constitutions adopted in 1979 and 1993. But the military rule in Nigeria, which can also be called the rule by 'military decrees,' violated the Constitution time and again and, thus, violated the people's right to self-determination. The 'military decrees' were the orders issued by the military leaders upon assumption of power which would suspend the Constitution and therefore, violate the constitutional provisions. For example, the decree no.1 adopted in 1966 appropriated for the military head of the state full executive power without accountability and also suspended the popularly elected legislature. Thus, during the colonial rule, the Nigerians found little representation, and in most situations, their voices remained unheard. But during the military rule, the Nigerians had simply no representation. Nigeria, in this period, had the most centralized system of governance where the military rulers and military law prevailed.

II. Colonial Rule and the Civilian Rule

Due to the religious, ethnic and regional divisions created by the British, Nigeria emerged "a state without a nation" (Falola & Heaton 2008) after independence. The Nigerian society was a collage of 300 ethnic and cultural groups at the time of independence.

Therefore, although Nigeria adopted a democratic polity after independence, in the absence of any cultural and political cohesion, it could not develop a national identity. The Independence Constitution emphasized civil and political rights of the people. The Constitution also adopted a federal structure with the intent to provide representation to each region. But very soon split emerged between the regional parties. The inevitable outcome was power struggle. State-sponsored violence targeted mainly against opposite factions became widespread resulting in the violation of the Constitution and hence the violation of people's rights.

The first period of civilian rule, also known as the First Republic, ended in 1966 with a military coup. Civilian rule, however, once again returned in 1979 and a new Constitution was adopted. The 1979 Constitution reaffirmed the civil and political rights through recognition of right to life, liberty and human dignity. Despite the recognition of these rights, the Second Republic, as the period from 1979-1983 is referred to, had a significantly poor human rights score. The period was marred by increased power struggle based on the divisions within the society which led to another take-over by the military.

The death of the military ruler General Sani Abacha in 1998 paved the way for the return of the civilian rule in 1999. The new civilian rule, referred to as the Fourth Republic, under the leadership of Olusegun Obasanjo, promised to reduce the excesses of the military rule and establish democracy. Despite the promises, however, violation of human rights continued to plague the Nigerian society. Soon after the election of Obasanjo, Islamic Sharia was proclaimed in all the northern states "*driving out southerners and burning of churches.*" (Burning from Inside 2007) The act resulted in increased inter-communal violence in which state actors like the police, the military and even the political leaders used force against the people without compunction.

II.I. Rule of Law

In order to entrench their own authority, the civilian rulers in Nigeria have blatantly violated the rule of law, during the three phases of civilian rule. In fact, after independence, both the national and the regional governments have practiced the policies pursued by their colonial masters with greater impunity. The Official Secret Act (1962) and the Sedition offences Act (1963) were passed after independence to suppress dissent and any opposition to the ruling government. The power of these acts was generously used to silence the press. Although the colonizers also rendered sedition as an offence, they used an established system of justice to punish the offenders. Ibaheleh rightly observes,

"The foreigners at least proclaimed human rights, even if they practiced a dual system of law and justice which was represented by different levels of respect for the human rights in the motherland and in the colony." (2007)

Two indicators of the growing violation of the rule of law during the civilian regimes are: (a) the use of repressive force by the police, and (b) violence against the non-indigenes.

(a) The Repressive Police Force

The police force is a genesis of the colonial times. The colonialists created the police force to assist them in gaining complete political and economic control of Nigeria. To accomplish their goal the British used the police force to repress the colonized. After independence, however, it was hoped that the new police force will observe and protect the civil liberties of the Nigerians. During the First and the Second Republic the police power was used by the national and regional governments to silence any opposition to their authority based on regional and ethnic divisions. At the time of the establishment of the Fourth Republic, the new civilian leaders promised to cleanse the Nigerian society of crime and corruption which had become the hallmark of its predecessor military regime. With the promise, however, came a new rationale for the continued police persecution. In order to curb criminal activity, the police was given blanket powers to use force and repression. The police used these powers to apprehend innocent victims and carry out extrajudicial killings, especially, during the inter-communal violence in Kano (2004) and Jos (2007).

(b) Violence Against the Non-Indigenes

The British amalgamation of different regions and ethnic communities also resulted in the post independence politics of Nigeria being marred by the "*regionalization*" - strengthening of the regions at the expense of the central government. (Ihonvbere & Shaw 1998) The most widespread outcome of regionalization has been the practice of discrimination against the indigenes. The Nigerian citizens, after independence, got divided into two categories: the indigenes and non-indigenes.

"The indigenes of a place are those who can trace their ethnic and genealogical roots back to the community of people who originally settled there. Everyone else, no matter how long they or their families have lived in the place they call home, is and always will be a non indigene." (Human Rights Watch Report 2006)

The issue of indigeneity has not only led to the marginalization of the non-indigenes and therefore violation of their basic rights, but it has also resulted in widespread ethnic and communal violence, as evidenced in the Plateau (2001), Kaduna (2000 & 2002) and Delta states (2003). What is worse, the local governments became accomplices in the violence and killings in these conflicts. The local governments, tampered with their own ethnic or regional leanings, have used the police force to inflict violence on the non-indigenes and have thus undermined the observance of the rule of law.

II.II. Representative Government

Establishing a polity based on a representative government is perhaps the only area where Nigeria seems to have been doing better in the post-colonial civilian era. After independence, the Nigerians obtained the right to self-determination as opposed to no representation or very little representation during the colonial rule. However, the right to self-determination too got tainted due to the impending divisions in the Nigerian society resulting in electoral violence and fraud. Violence that ensued during the elections of 2003 and 2007 reveals that democratic rights were systematically denied to the people in Nigeria. Elections were marred by violence, intimidation, harassment, ballot box stealing and vote buying (Human Rights Watch Report 2003). Politically motivated violence increased even more during the 2007 elections. Candidates running for offices were attacked and two of them were even killed, according to the 2007 Amnesty International report for Nigeria.

Despite irregularities reported in the 2007 elections, the election of the new President Yar'Adua was upheld by the Nigerian Supreme Court. This speaks volumes about the state of law and democracy in Nigeria. Today, the Nigerian state has become an all powerful and an all controlling institution under the leadership of the non-military and democratically elected dictators. Having access to state power has become a symbol of success in Nigeria. Therefore, every group and every party, representing different regions and ethnicity, in the name of establishing a democratic polity, tries to gain access to the state power instead of representing the will of the people.

III. Future Prospects

The military rule in Nigeria was the worst violator of human rights. Nigeria, however, has been blessed with a succession of civilian regimes since the end of the military rule in 1999. Unfortunately, the change in governance has not resulted in better observance of human rights in Nigeria. According to the Global Peace Index (GPI) rankings, Nigeria's rank has gone down from 117 in 2007 to 137 in 2010 out of the 140 countries reviewed for the overall peace index. The basic indicators undertaken in the index are: respect for human rights, observance of civil liberties and competitiveness and fairness of the electoral process. Although civilian rule and democracy has returned in Nigeria but what has not happened for Nigeria is the "*deepening of democracy*." (Bauer & Taylor 2005) A genuine democracy is established when the government observes the principles of accountability along with the principles of political and social justice.

In addition, Nigeria is also facing an "identity crisis", which is actually an outcome of the religious, ethnic and regional diversities. In Nigeria, both the Muslims and the Christians identify themselves first with their religion, then with their ethnicity and last comes the identification with the nation. Therefore, in order to establish a stable society in Nigeria, which upholds the basic rights of its people, the foremost issue that needs to be addressed is diversity. In this regard, Babatunde Fafunwa, a Nigerian educationist and scholar, reposes his faith on people's power to create a "*national identity*" (2006)

"The Nigerian public must see itself as a part of the solution! Until the educated elite seriously become part of the solution, we really cannot do very well as a part of the nation." (Fafunwa)

The Nigerian citizens have to participate in establishing a genuine democracy in order to realize the post-independence dream of a flourishing Nigerian society. Establishment of a genuine democracy would mean people voting for the national leaders not ethnic representatives. It would mean people voting as citizens of Nigeria not as members of a particular ethnic community. It would also mean people voting without fear and without the possibility of their votes being rigged. Lastly and more importantly, genuine democracy would mean that the people, through their collectivity, would be able to impress upon the government to be answerable and responsible to the populace. This is how an accountable government can be established and an accountable government alone can observe people's rights.

The strength of a strong civil society became visible when Obasanjo was denied a third term run to power in the 2007 elections, in accordance with the constitutional provision of a two term limitation for the President. However, things did not go any further in terms of the creation of a cohesive society.

Under Yar'Adua's tenure, the successor to Obasanjo, the ethnic, religious and regional divisions got revived, as evidenced by the continued violence on the issue of the indigenes and non-indigenes. Collective action on the part of the Nigerian elite and the educated Nigerians has to be a continuous and ongoing process to create an accountable government, which is more liable to create a cohesive society and, therefore, uphold the basic rights of the citizens.

IV. Conclusion

The Nigerian society has been a victim of human rights violation since the colonial times. The colonialists were foreigners who subjugated the rights of the native Nigerians to consolidate their power. After independence, however, it is the native Nigerians who have become the violators of human rights. In the post-independence period, these rights have either remained suspended in Nigeria, as in the military era, or they have constantly been repressed by the civilian leaders in an effort to aggrandize their own power. An essential pre-requisite to ensure the observance of human rights in Nigeria, therefore, is the establishment of an accountable government which should strive to give the Nigerians a national identity, and also a cohesive society.

References

Books:

1. Bauer, Gretchen and Scott D. Taylor (2005); "Politics in Southern Africa"; Lynne Rienner Publisher; pp104
2. Falola, Toyin and Matthew M. Heaton (2008); "A History of Nigeria"; Cambridge University Press; pp: 159
3. Ibhawoh, Bony (2007 "a" "b" "c"); "Imperialism and Human Rights"; State University of New York Press; pp: 25, 82 & ii¹ Ihonvbere, Julius O. and Timothy Shaw (1998); "Illusions of Power"; Africa World Press, Inc; pp: 19

Web Sources:

1. Fafunwa, Babatunde (2006); The Achebe Foundation Interviews # 28; Nigerian Village Square; May 16; Available at http://www.nigeriavillagesquare.com/j4/index.php?option=com_content&view=article&id=3038&catid=45&Itemid=168&allposts=1; Accessed on: August 18, 2009
2. Human Rights Watch Report (2006); "They do not own this place"; pp: 3; Available at <http://www.hrw.org>; Accessed on 16 July, 2009.
3. Human Rights Watch Report (2003); "Nigeria's 2003 Elections"; pp:1; Available <http://www.hrw.org/en/node/12129/section/2at>; Accessed on August 16, 2009

Video Source:

1. "Burning from the Inside" (2007); Film by Nick Peterson; Global Films/Edge Image Bank Pictures