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STATE RESPONSE TO COVID-19 PANDEMIC – FAILURE OF SOCIAL INTERVENTIONS IN NIGERIA

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Abstract

The spread of the COVID-19 pandemic to Africa triggered emergency responses from many states on the continent, including lockdowns, social distancing measures and law enforcement agents receiving the mandate to enforce compliance with these measures. Such responses have generated collateral negative consequences for the socio-economic and civil and political rights of citizens. However, beyond the façade of governments' seemingly prompt invocation of various measures is their abandonment of the *raison d'être*, namely, the welfare of the people. This chapter examines the failure of social interventions that governments introduced to ameliorate the hardship associated with the pandemic. Specifically, the chapter interrogates Nigeria's failure to justify the principal reason for its existence – to cater for citizens' welfare or create an environment where they can access basic necessities of life. The chapter analyses the Nigerian government's inability to genuinely and prudently deploy available resources to meet the welfare needs and the development challenges of its people as the International Covenant on Economic, Social and Cultural Rights (ICESCR) (1966) envisaged. Further, the chapter addresses the government's failure to observe the United Nations Convention against Corruption (UNCAC) 2003 and the African Union Convention on Preventing and Combating Corruption (AUCPCC) 2003's transparency and accountability rules in earmarking, disbursing, and managing resources deployed to control the pandemic, exclusion of civil society from monitoring its activities, and the inability to fight inflation arising from the economic downturn (and consequent increase in the number of poor people). Therefore, the chapter concludes that structural change potential that ought to inhere in social interventions could not manifest itself because the country failed to respond to the pandemic based on the rules of domestic and international law and international best practices.

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1 Introduction

The reality of McLuhan's global village becomes apparent when the good, bad or ugly that takes place in one part of the globe quickly reverberates in all other parts.¹ Consequently, the world has become inter-dependent. This interdependence is particularly evident within the context of the coronavirus outbreak. COVID-19 is a new genre of coronaviruses that causes illnesses such as the common cold, severe acute respiratory syndrome (SARS) and Middle East respiratory syndrome (MERS).² It spreads primarily through droplets of saliva or discharge from the nose when an infected person coughs or sneezes.³

International law obligates every state to provide the enabling environment for protecting and preserving the life and health of its citizens and persons within its territory. States make efforts to fulfil this obligation through relevant international instruments such as the UN Charter 1945 (to which over 200 states are signatories) and domestic law. The World Health Organisation (WHO), a UN specialised agency, is the arrowhead for managing and disseminating information and strategies needed to tackle international health emergencies. The WHO Constitution vests upon the World Health Assembly (WHA) the authority to adopt regulations 'designed to prevent the international spread of disease'.⁴ Thus, in 1969, the WHA adopted the International Health Regulations (IHR).⁵ The Regulations passed a series of amendments until 2005 when the WHA adopted the IHR 2005.⁶ The IHR 2005's purpose and scope is:

[T]o prevent, protect against, control and provide a public health response to the international spread of disease in ways that are commensurate with

- 1 J Barevičiūtė 'The locality of the "global village" in the aspect of communication: *Pro et contra* M McLuhan' (2010) 3 *Limes* 184 at 184-186; N Nash 'International facebook "friends": Toward McLuhan's global village' (2009) 5 *The McMaster Journal of Communication* 1 at 4 & 5; and E Georgiadou 'McLuhan's global village and the internet' 2nd International Conference on Typography and Visual Communication, Thessaloniki, Greece, January 2002 <https://www.researchgate.net/publication/274383393> (accessed 20 March 2021).
- 2 O Awofeso & PA Irabor 'Assessment of government response to socioeconomic impact of COVID-19 pandemic in Nigeria' (2020) 3 *Journal of Social and Political Sciences* 677 at 679.
- 3 WHO 'Coronavirus' https://www.who.int/health-topics/coronavirus#tab=tab_1 (accessed 13 October 2020).
- 4 Articles 21(a) & 22.
- 5 WHO *International Health Regulations* 2nd ed (2005) <https://www.who.int/ihr/publications/9789241580496/en/> (accessed 10 October 2020).
- 6 Adopted on 23 May 2005 and entered into force on 15 June 2007.

and restricted to public health risks, and which avoid unnecessary interference with international traffic and trade.⁷

Specifically, the Regulations oblige each state party to develop certain minimum core public health capacities; and to notify WHO of events that may constitute a public health emergency of international concern.⁸

The IHR represents a compact among WHO member states with the WHO acting as the coordinator that interfaces with the former when a health emergency arises. Accordingly, it was during such interaction between WHO and China that the reality of the pandemic dawned. Therefore, on 23 January 2020, WHO's IHR's Emergency Committee advised that:

[A]ll countries should be prepared for containment, including active surveillance, early detection, isolation and case management, contact tracing and prevention of onward spread of 2019-nCoV infection, and to share full data with WHO.⁹

Thereafter, on 30 January 2020, the WHO announced that COVID-19 was a global public health emergency. The WHO declaration agitated the international community and tasked health authorities in states across the world to take preventive and control measures. Depending on circumstances specific to their territories, many states, including those in Africa, responded to the pandemic differently. Within the context of state response to COVID-19 pandemic, this chapter discusses the social interventions Nigeria introduced to ease the hardship associated with the pandemic. Whereas Section 2 considers the COVID-19 outbreak, Section 3 examines some of the ways the Nigerian state responded to the pandemic, including its provision of cash and food items to the most vulnerable sections of the population. However, the Section concludes that the country's attempt woefully failed. Section 4 discusses the manifestations of such failure and, finally, Section 5 concludes the discussion.

7 Article 2.

8 At 1.

9 WHO 'Statement on the first meeting of the International Health Regulations (2005) Emergency Committee regarding the outbreak of novel coronavirus (2019-nCoV)' (23 January 2020) [https://www.who.int/news/item/23-01-2020-statement-on-the-meeting-of-the-international-health-regulations-\(2005\)-emergency-committee-regarding-the-outbreak-of-novel-coronavirus-\(2019-ncov\)](https://www.who.int/news/item/23-01-2020-statement-on-the-meeting-of-the-international-health-regulations-(2005)-emergency-committee-regarding-the-outbreak-of-novel-coronavirus-(2019-ncov)) (accessed 12 June 2020).

2 Outbreak of the coronavirus

The coronavirus, an infectious disease, is believed to have originated from Wuhan, Hubei province, China where (since 8 December 2019) several cases of pneumonia of unknown aetiology were reported.¹⁰ Nanshan Chen and others observe that ‘in the early stages of the pneumonia, severe acute respiratory infection symptoms occurred, with some patients rapidly developing acute respiratory distress syndrome’.¹¹ Ultimately, on 11 March 2020, the WHO declared it a pandemic. Although the WHO defines a pandemic simply as a worldwide spread of a new disease,¹² Morens et al observe that a pandemic has been variously defined as ‘extensively epidemic’, ‘epidemic ... over a very wide area and usually affecting a large proportion of the population’ and ‘distributed or occurring widely throughout a region, country, continent or globally’.¹³ Awofeso and Irabor define a pandemic as a widespread epidemic that affects people in many countries and continents and a term used to substantiate the rapid rate of contagious disease raging from endemic and epidemic.¹⁴

Historically, there have been similar pandemics in the 20th and 21st centuries, including American polio (1916), the Spanish Flu (1918-1920), the Asian Flu (1957-1958), the human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS) (1981 till date), Swine Flu (2009-2010), Severe Acute Respiratory Syndrome (SARS) (2002-2003), the Ebola epidemic (2014-2016), and the Zika virus (2015 till date).¹⁵

When the WHO finally disclosed the COVID-19 virus’ pandemic status in March 2020, states announced emergency health measures to keep their citizens safe from the viral infection. Based on the WHO advisory and

10 N Chen et al ‘Epidemiological and clinical characteristics of 99 cases of 2019 novel coronavirus pneumonia in Wuhan, China: A descriptive study’ (2020) 395 *Lancet* 507.

11 Chen et al (n 10). See also AE Orhero & EA Oghuvbu ‘The socio-economic effects of COVID-19 Global Pandemic on Nigeria’s development’ (2020) 10 *Journal of Danubian Studies and Research* 509 at 509.

12 WHO ‘What is a pandemic?’ (24 February 2010) https://www.who.int/csr/disease/swineflu/frequently_asked_questions/pandemic/en/ (accessed 23 November 2020).

13 DM Morens, GK Folkers & AS Fauci ‘What is a pandemic?’ (2009) 200 *Journal of Infectious Diseases* 1018.

14 Awofeso & Irabor (n 2) 679, also defining an endemic disease as an infectious disease that is common in a particular region or community and an epidemic as an outbreak of infectious disease in a community at a particular time.

15 See O Jarus ‘20 of the worst epidemics and pandemics in history’ (20 March 2020) <https://www.livescience.com/worst-epidemics-and-pandemics-in-history.html> (accessed 8 October 2020). See also Awofeso & Irabor (n 2) 677.

other international and local best practices, states put medical facilities and personnel in place to conduct tests on persons and isolate infected persons for observation, quarantine or treatment, imposed lockdowns on homes and offices, mandated the wearing of face masks, regular hand washing and sanitising, social distancing, etc.¹⁶ Most importantly, movement of goods and services internationally, international flights and work place activities were suspended.¹⁷ The outcome of the medical tests revealed that the citizens of many states that are geographically faraway from China such as the United Kingdom, the United States, Italy, Germany and the rest were already infected. As at 11 April 2021 there were 134 308 070 confirmed COVID-19 cases worldwide with 2 907 944 casualties and the United States, India and Brazil had the highest death rates of 575 818, 170 209, and 353 137 deaths respectively.¹⁸ As at the same date, Nigeria confirmed 163 736 COVID-19 cases and 2 060 fatalities.¹⁹ However, as soon as the infection curve declined, depending on their peculiar circumstances, states eased their lockdown.

Throughout 2020, scientific research for breakthrough against the virus appeared to have yielded little. But as at 18 February 2021, at least seven different vaccines were discovered or developed.²⁰ Many states purchased and commenced the distribution and administration of such vaccines on their citizens. Nevertheless, states maintained the tempo of their huge investment in preventive measures such as maintaining personal hygiene, regular hand washing, hand sanitising, wearing face masks and social distancing for their citizens' benefit. Against this backdrop, the next section examines Nigeria's responses to the pandemic.

16 WHO 'Coronavirus disease (COVID-19) advice for the public' (13 October 2020) <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/advice-for-public> (accessed 9 October 2020).

17 See, eg ILO 'COVID-19 and the world of work: Country policy responses' <https://www.ilo.org/global/topics/coronavirus/regional-country/country-responses/lang-en/index.htm#NL> (accessed 10 October 2020).

18 WHO 'Coronavirus disease (COVID-19) pandemic' (14 October 2020) https://www.who.int/emergencies/diseases/novel-coronavirus-2019?gclid=CjwKCAjww5r8BRB6EiwArcckC0niV1UXfg4CYL3rkPOqnxG6oO8O4ZnaoiJoEtMXCR4u3pTwBbS4mRoCM68QAvD_BwE (accessed 11 April 2021); Worldometer 'COVID-19 Coronavirus Pandemic' (11 April 2021) https://www.worldometers.info/coronavirus/?utm_campaign=homeAdvegas1?#countries (accessed 11 April 2021).

19 Worldometer (n 18).

20 WHO 'COVID-19 vaccines' <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/covid-19-vaccines> (accessed 7 April 2021).

3 Nigeria's responses to the COVID-19 pandemic

In response to the WHO's declaration of the pandemic as public health emergency of international concern and subsequent to the country's first index COVID-19 case reported on 27 February 2020,²¹ the country invoked relevant laws to prevent and control the virus' spread. Under the Constitution of the Federal Republic of Nigeria (CFRN) 1999, both the Federal and State Governments share responsibilities. Generally, State Governments have exclusive legislative competence over public health²² subject to some exceptions, which include the Federal Government's exclusive legislative powers to provide for the regulation of quarantine²³ and to legislate on health requirements relating to importation or exportation of food and other commodities²⁴ and the concurrent powers invested in the Federal Government and State Governments to legislate on health, safety and welfare of persons employed in factories, or other premises or in inter-state transportation and commerce.²⁵ Furthermore, section 7(5) of the CFRN obligates State Governments to confer important public health functions²⁶ on local government councils.

Pursuant to the Quarantine Act of 1926,²⁷ the President made COVID-19 Regulations 2020²⁸ and introduced a variety of countermeasures.²⁹ While section 3 of the Act empowers the President

- 21 OA Oginni et al 'A Commentary on the Nigerian response to the COVID-19 pandemic' (2020) 12 *Psychological Trauma: Theory, Research, Practice, and Policy* 553.
- 22 See BO Nwabueze *Federalism in Nigeria under the presidential constitution* (Sweet & Maxwell, 1983) 147, stating that public health is concerned with prevention of diseases through better sanitation and hygiene, inoculation against infectious and contagious diseases and epidemics, isolation, segregation and disinfection, quarantine generally, inspection of animals meant for the slaughter house to ensure that they are fit for human consumption, prohibition of the sale of adulterated or impure food, proper ventilation and other requirements relating to building, etc.
- 23 Item 54 of the Exclusive Legislative List, Second Schedule, CFRN, 1999.
- 24 Item 62(a) of the Exclusive Legislative List, Second Schedule, CFRN, 1999.
- 25 Item H, paragraph 17(a) of the Concurrent Legislative List, Second Schedule, CFRN, 1999.
- 26 Such functions include establishment and maintenance of cemeteries, burial grounds and homes for the destitute or infirm; establishment and maintenance and regulation of slaughter houses, slaughter slabs, markets, motor parks and public conveniences; and provision and maintenance of public conveniences, sewage and refuse disposal: See paras 1(c),(e), and (h), Fourth Schedule, CFRN, 1999.
- 27 Cap Q2, Laws of the Federation of Nigeria (LFN) 2004.
- 28 'COVID-19 Regulations 2020' (signed and dated 30 March 2020) <https://pwcnigeria.typepad.com/files/fg-covid-19-regualtions-1.pdf> (accessed 12 June 2020).
- 29 CA Ekechi-Agwu 'Regulating public health emergencies in Nigeria: prospects and

to declare any place to be an infected local area, section 4 authorises him to make regulations to prescribe the steps to be taken within any place that has been so declared, and to prevent the spread of any dangerous infectious disease³⁰ from any place within Nigeria.

However, there are doubts as to whether the President could validly exercise such power. Chapter IV of the CFRN 1999 provides for the fundamental human rights of citizens. But such rights are not absolute. Thus, section 45 circumscribes such rights by stating that nothing in the Constitution shall invalidate any law that is reasonably justifiable in a democratic society in the interest of defence, public safety, public order, public morality or public health; or for the purpose of protecting the rights and freedom of other persons. The Quarantine Act is an example of such a law. But does the Quarantine Act validate the COVID-19 Regulations 2020? The answer appears to be yes because the President's order of restriction or cessation of movement in parts of the country furthers the purpose of the Quarantine Act, which includes the prevention of the spread of infectious disease like COVID-19. It is important to note that the governor of any of the states in the Federation can exercise the power to declare and regulate only where the President fails to act accordingly.³¹

Quite importantly, the powers the President exercised are not the emergency powers the Constitution envisages. Section 305 of the CFRN enumerates instances in which the President can either *suo motu* or upon request by a governor of a state, issue a Proclamation of a state of emergency where, as appropriate, there is a clear and present danger of an actual breakdown of public order and public safety in the Federation or any part thereof requiring extraordinary measures to avert such danger. In taking this measure, the Constitution requires presidential recourse to the National Assembly. Conversely, the President relied on the limiting clause in section 45 of the CFRN and the Quarantine Act to make COVID-19 Regulations for the cessation and restriction of movement for public health purposes. In this case, there is no requirement for the President to seek any other authority's concurrence.³²

constraints' (2019) 2 *Journal of Law and Judicial System* 11, observing that the power to declare disease as constituting public health emergency in Nigeria is vested in the President who also could make regulations for the control and prevention of the spread of such disease.

30 According to sec 2 of the Act, a 'dangerous infectious disease' means cholera, plague, yellow fever, smallpox and typhus, and includes any disease of an infectious or contagious nature which the President may, by notice, declare to be a dangerous infectious disease within the meaning of the Act.

31 Section 8 of the Quarantine Act.

32 'COVID-19: Lawyers divided over president's power to invoke state of emergency,

In the COVID-19 Regulations 2020, the President locked down Lagos and Ogun States and the Federal Capital Territory (FCT) for an initial 14-day period.³³ Subsequently, the lockdown was extended to other parts of the country. On 9 March 2020, President Buhari established the Presidential Task Force (PTF) on COVID-19 to coordinate and oversee Nigeria's multi-sectoral inter-governmental efforts to contain the virus and mitigate the pandemic's impact.³⁴ The PTF was expected to liaise with the Federal Ministry of Health and the Nigerian Centre for Disease Control (NCDC) in order to carry out its duties. The lockdown measures Nigeria introduced were as comprehensive as those implemented in other countries. The measures extended to all facets of social, economic, religious and academic life, including closure of both private and public schools from nursery to post-graduate levels; public markets, supermarkets, stores and shops; parks, stadiums, cinemas, hotels, restaurants and industries; airports; etc. Also, there was lockdown of human and intra and inter-state vehicular movement nationwide. Additional measures included requiring social distancing and related protocols, frequent hand sanitising, face masking especially in public places.³⁵

Obviously, the lockdown measures were a necessary restriction on human rights³⁶ in that they restricted freedoms of movement, assembly, religion, right to education, etc. While the 1999 Constitution contains genres of first-generation³⁷ and second-generation³⁸ human rights, these rights are largely subordinated to and justified by the limitation clause in section 45(1)(a) of the constitutional document in the interest of defence, public safety, public order, public morality or public health. It is true that the COVID-19 pandemic triggered 'emergency' responses from states including Nigeria. Yet the country came short of declaring or proclaiming

Quarantine Act' *Vanguard* 2 April 2020 <https://www.vanguardngr.com/2020/04/covid-19-lawyers-divided-over-presidents-power-to-invoke-state-of-emergency-quarantine-act/> (accessed 15 March 2021).

- 33 'Full speech of Buhari's address to the nation' (29 March 2020) <https://healthwise.punchng.com/full-speech-of-buharis-address-to-the-nation/> (accessed 10 October 2020).
- 34 PTF 'Objectives' <https://statehouse.gov.ng/covid19/objectives/> (accessed 14 July 2020).
- 35 WHO 'Q&A: Masks and COVID-19' (9 October 2020) <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/question-and-answers-hub/q-a-detail/q-a-on-covid-19-and-masks> (accessed 10 October 2020).
- 36 JA Ndimele 'Restriction on palliative measures for sustenance against COVID-19 pandemic in Nigeria' (2020) 7 *International Journal of Innovative Research and Advanced Studies* (IJIRAS) 217.
- 37 These are civil and political rights enshrined in Chapter IV of the CFRN 1999.
- 38 These are social, economic and cultural rights found in Chapter II of the CFRN 1999.

a state of emergency for which section 305 of the CFRN 1999 copiously provides. Nevertheless, the President utilised the Quarantine Act of 1926 to declare the existence of the pandemic and to make COVID-19 Regulations for the restriction or cessation of intra and inter-state movement. It is important to draw a demarcation between a restriction or limitation clause and a derogation clause.

A restriction clause, which recognises the non-absoluteness of any right anywhere is meant to limit the exercise of certain rights guaranteed by human rights instruments in ordinary circumstances.³⁹ It is based on the recognition that most human rights are not absolute but rather reflect a balance between individual and community interests.⁴⁰ On the other hand, a derogation clause exists to suspend the application of some human rights instruments for exceptional and extraordinary purposes bordering on the survival of the state. It allows for partial or complete suspension of certain rights in situations of public emergency.⁴¹ Incidentally, some international human rights instruments such as the Convention on the Rights of the Child (CRC) 1991, the International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966, and the African Charter on Human and Peoples' Rights (ACHPR) 1981 do not contemplate any derogation clause.⁴² Therefore, the COVID-19 Regulations were limitations on rather than derogations from constitutional human rights provisions.

3.1 Consequences of Nigeria's response to COVID-19

When state agents enforced the measures outlined above, collateral consequences detrimental to the protection of citizens' human rights

39 GB Fernandez 'Within the margin of error: Derogations, limitations, & the advancement of human rights' (2019) 92 *Philippine Law Journal* 8 https://www.researchgate.net/publication/335189879_Within_the_Margin_of_Error_Derogations_Limitations_and_the_Advancement_of_Human_Rights/link/5db271fb92851c577ec1f4ec/download (accessed 25 November 2020).

40 D McGoldrick 'The interface between public emergency powers and international law' (2004) 2 *International Journal of Constitutional Law* 383. See also art 4 of the International Covenant for Social, Economic and Cultural Rights (ICESCR) 1966, art 5 of the International Covenant for Civil and Political Rights (ICCPR) 1966, and art 27(2) of the African Charter on Human & Peoples Rights 1981.

41 C Schreuert 'Derogation of human rights in situations of public emergency: the experience of the European Convention on Human Rights' (1982) 9 *The Yale Journal of World Public Order* 114.

42 Icelandic Human Rights Centre 'Alteration of human rights treaty obligations' <https://www.humanrights.is/en/human-rights-education-project/human-rights-concepts-ideas-and-fora/part-i-the-concept-of-human-rights/alteration-of-human-rights-treaty-obligations> (accessed 26 March 2021).

ensued. These consequences included instances of killings,⁴³ illegal detention in places where social distancing was impossible,⁴⁴ deportation of certain Nigerians,⁴⁵ demolition of buildings,⁴⁶ etc. Due to these human rights abuses people's support for the above-mentioned measures whittled away, thereby delegitimising the anti-pandemic measures.⁴⁷

Surely, within the context of the socio-economic reality of Nigeria, the policy measures instituted against COVID-19 generated tremendous anxiety among citizens. Eighty-seven per cent of its population (estimated to be about 200 million) earns less than US\$1.90 dollars a day⁴⁸ and, therefore, live below the extreme poverty line. According to the National Bureau of Statistics (NBS) in 2019, 40 per cent of the population, or almost 83 million people, lived below the country's poverty line of 137 430 naira (\$381.75) per year.⁴⁹ In Nigeria, about 65 per cent of those who eke out their daily living belong to the economy's informal sector.⁵⁰ They rely on daily commercial activity in their struggle to survive and overcome their existential exigencies. According to Awofeso and Irabor, the informal economy – which covers a wide range of labour market activities, including street trading, carpentry, motorcycle services, photography,

43 'Coronavirus: Security forces kill more Nigerians than COVID-19' *BBC* 16 April 2020 <https://www.bbc.com/news/world-africa-52317196> (accessed 15 October 2020).

44 C Ojewale 'Lagos police, LAGESC, touts endanger lives in joint raids over facemasks, social distancing' *Business Day* 20 June 2020 <https://businessday.ng/security/article/lagos-police-lagesc-touts-endanger-lives-in-joint-raids-over-facemasks-social-distancing/> (accessed 25 August 2020).

45 O Aghedo 'COVID-19: 'Deportation' of Almajiris re-opens citizenship rights debate' *Guardian* 2 May 2020 <https://guardian.ng/politics/covid-19-deportation-of-almajiris-re-opens-citizenship-rights-debate/> (accessed 26 March 2021).

46 'Coronavirus lockdown: Two hotels demolished in Nigeria "for breach of rules"' *BBC* 11 May 2020 <https://www.bbc.com/news/world-africa-52617552> (accessed 7 August 2020).

47 C Onyemelukwe 'The law and human rights in Nigeria's response to the COVID-19 Pandemic' *Petrieiflom Centre* 4 June 2020 <https://blog.petrieiflom.law.harvard.edu/2020/06/04/the-law-and-human-rights-in-nigerias-response-to-the-covid-19-pandemic/> (accessed 27 August 2020).

48 B Adebayo 'Nigeria overtakes India in extreme poverty ranking' *CNN* 26 June 2018 [https://edition.cnn.com/2018/06/26/africa/nigeria-overtakes-india-extreme-poverty-intl/index.html#:~:text=Lagos%2C%20Nigeria%20\(CNN\)%20Nigeria,less%20than%20%241.90%20a%20day](https://edition.cnn.com/2018/06/26/africa/nigeria-overtakes-india-extreme-poverty-intl/index.html#:~:text=Lagos%2C%20Nigeria%20(CNN)%20Nigeria,less%20than%20%241.90%20a%20day) (accessed 26 November 2020).

49 NBS '2019 poverty and inequality in Nigeria' (2019) 6 www.nigerianstat.gov.ng (accessed 17 July 2020). See also World Bank 'Nigeria releases new report on poverty and inequality in country' (28 May 2020) <https://www.worldbank.org/en/programs/lsm/brief/nigeria-releases-new-report-on-poverty-and-inequality-in-country> (accessed 27 November 2020).

50 'Nigeria's informal economy accounts for 65% of GDP – IMF' *Business AM Live* 8 August 2017 <https://www.businessamlive.com/nigerias-informal-economy-accounts-65-gdp-imf/> (accessed 7 September 2020).

catering, hairdressing, fashion designing, painting, etc – is widespread in developing countries due to scarcity of earnings opportunities and economic hardship.⁵¹ Nigeria is no exception. The 2020 devaluation of the country's national currency from N305 to N360 to US\$1 further compounds the frightening statistics mentioned above.⁵² Moreover, even though the monthly minimum wage for those in the formal sector was in 2020 increased from N18 000 to N30 000, it is still insufficient and several states governments owe workers several months' salaries.⁵³

Therefore, the people expected the government to provide them with COVID-19 palliatives or handouts so that they would be able to keep body and soul together. The total lockdown necessitated deliberate, targeted, organised, well laid-out and coordinated responses by the government, institutions, individuals and corporate organisations to provide support for the needy, especially those who live below the poverty line and live from hand to mouth and, therefore, will be most affected by the lockdown. Such measures usually include provision of cash, food items, clothing, water, electricity and other relief items.⁵⁴ Incidentally, the CFRN obligates the state to so provide. Specifically, Chapter II of the CFRN invests citizens with social, economic and cultural rights, including the right to health, food, sustenance, welfare, etc. Prior to analysing how the government fared, it is necessary to look at how the government appraised the pandemic relative to its enormous responsibility towards the citizens.

Formally, the government realises that it has, on behalf of the state, a social contract⁵⁵ – symbolised by the Constitution – with the citizens which mandates it to provide for the citizens, especially in times of emergency. However, the macroeconomic shock waves the pandemic triggered and the attendant burdensome fall in oil prices⁵⁶ contributed to

51 Awofeso & Irabor (n 2) 678.

52 'Official: CBN says 360/\$1 not devaluation but adjustment of price' *Nairametrics* 21 March 2020 <https://nairametrics.com/2020/03/21/official-cbn-says-n360-1-not-devaluation-but-adjustment-of-price/> (accessed 22 June 2020).

53 'Minimum wage: Fury in states as governors renege on FG figures' *Guardian* 10 November 2020 <https://guardian.ng/saturday-magazine/cover/minimum-wage-fury-in-states-as-governors-renege-on-fg-figures/> (accessed 10 April 2021).

54 Ndimele (n 36) 218.

55 See, eg AA Frimpong, CR Jones & K Esedo 'The theoretical perspective and strands of the social contract as espoused in the works of Hobbes, Locke, and Rousseau: Its effects on the contemporary society' (2018) 8 *Public Policy and Administration Research* 64 at 65-68.

56 See Orhero & Oghuvbu (n 11) 510; and G Oseni et al 'Tracking the socioeconomic impacts of the pandemic in Nigeria: Results from the first three rounds of the Nigeria COVID-19 national longitudinal phone survey' (16 September 2020) <https://blogs.worldbank.org/opendata/tracking-socioeconomic-impacts-pandemic-nigeria-results-first-three-rounds-nigeria-covid> (accessed 22 November 2020).

the government's inability to fulfil its constitutional duties. Therefore, the Nigerian government looked to both international and domestic financial resources for assistance and received a \$3.4 billion loan from the IMF on 28 April 2020,⁵⁷ a €50 million contribution from the European Union (EU),⁵⁸ and borrowed \$4.34 billion from domestic stock market to finance national budget. As at the time of writing, the Nigerian government also planned to borrow \$2.5 billion from the World Bank and \$1 billion from African Development Bank.⁵⁹ Furthermore, subsequent to the governor of the Central Bank of Nigeria (CBN)'s plea for financial assistance, the Nigerian private sector established the Coalition Against COVID-19 (CACOVID) on 26 March 2020. As at April 2020, CACOVID had raked in a whopping sum of N25.8 billion.⁶⁰

In the face of the exigencies, the needs of Nigerians were narrowed down to cash and food supplies.

3.2 Cash transfer

In his first broadcast on 29 March 2020 on the pandemic, President Buhari ordered lockdown in Lagos and Ogun States and in the Federal Capital Territory (FCT).⁶¹ Regarding palliatives, he directed that a three month repayment moratorium be implemented on certain beneficiaries' loans and, though schools were closed, he instructed the Ministry of Humanitarian Affairs, Disaster Management and Social Development (HADMSD) to work with state governments in developing a strategy on how to sustain the school feeding programme. Furthermore, he directed that for the next

57 IMF press release (20/191) 'IMF Executive Board approves US\$ 3.4 billion in emergency support to Nigeria to address the COVID-19 pandemic' (28 April 2020) <https://www.imf.org/en/News/Articles/2020/04/28/pr20191-nigeria-imf-executive-board-approves-emergency-support-to-address-covid-19?cid=em-COM-123-41511> (accessed 25 June 2020).

58 'EU boosts Nigeria's COVID-19 response with N21 billion contribution' https://eeas.europa.eu/delegations/nigeria/77571/eu-boosts-nigeria-s-covid-19-response-n21-billion-contribution_en (accessed 27 September 2020).

59 'Nigeria to borrow \$6.9bn from World Bank, IMF, AfDB' *Punch* 7 April 2020 <https://punchng.com/nigeria-to-borrow-6-9bn-from-world-bank-imf-afdb/> (accessed 10 June 2020).

60 'Framework for the management of COVID-19 funds in Nigeria under the treasury single account' *Proshare* 11 May 2020 <https://www.proshareng.com/news/Fiscal%20Policy/Framework-for-the-Management-of-COVID-19-Funds-in-Nigeria-under-the-Treasury-Single-Account/50953> (accessed 24 September 2020).

61 'Full speech of Buhari's address to the nation' *Healthwise* 29 March 2020 <https://healthwise.punchng.com/full-speech-of-buharis-address-to-the-nation/> (accessed 2 April 2020).

two months conditional cash transfers be paid immediately to the most vulnerable in the society.⁶²

Despite some positives, the President's speech illustrated that the government was quite unserious about meeting the people's survivalist expectations or alleviating lockdown-related problems. Instead of talking concretely, the President evaded his obligation to adequately supply the people's urgent needs. Without prejudice to the likely benefits of his moratorium on loan repayments, his reference to school feeding programme was out of place. Schools at all levels were closed down, meaning that schoolchildren stayed at home. Yet the President discussed feeding school children! Ordinarily, his directive on paying conditional cash transfers to the vulnerable would have been commendable but the directive disguised important information about the pre-lockdown history of such transfers. In 2016, during the tripartite negotiation for Switzerland's return of the last tranche of the \$322.5 million that former dictator Abacha plundered from Nigeria,⁶³ President Buhari proposed that the money be utilised for social investment, via a conditional cash transfer to the most vulnerable Nigerians who have been identified and documented in the National Social Register (NSR) as 'the poorest of the poor' Nigerians. Upon receiving the money, the government commenced conditional cash transfers to the identified beneficiaries. However, during lockdown when Nigerians desperately needed supplies from the government, the government, which had no intention to fulfil its duty to cater to the people's welfare, pretended it was acting by passing off conditional cash payments to the vulnerable which began in 2016 as payments to persons the lockdown and COVID-19 pandemic rendered vulnerable. Nevertheless, on 1 April 2020, following the presidential directive, the HADMSD Minister said that the government had commenced immediate conditional cash transfer of N20 000 to the poorest and most vulnerable households in the country.⁶⁴

62 See also sec 5 of the COVID-19 Regulations.

63 'Switzerland returned \$322.5m with interest – envoy' *Pulse* 24 April 2018 <https://www.pulse.ng/news/local/abacha-loot-switzerland-returned-dollar3225m-with-interest-envoy/bxkfkbp> (accessed 17 July 2020).

64 'Nigeria Government begins distribution of N20,000 relief fund to homes' *Guardian* 1 April 2020 <https://guardian.ng/news/nigeria-government-begins-distribution-of-n20000-relief-fund-to-homes/> (accessed 13 April 2021).

In his second broadcast, the President announced the increase of the number of cash transfer beneficiaries from 2.6 million households (comprising about 11 million people) to 3.6 million households.⁶⁵ It is bad enough that modalities for mapping out or identifying the poorest households are opaque and nebulous. It is worse that the government still relied on such modalities to make payments within the COVID-19 pandemic's context. Three million six hundred thousand (3.6 million) is a far cry from the 89 million impoverished Nigerians. Therefore, the government's efforts to increase the number of beneficiaries were highly controversial. The Presidential statement as to the addition of 1 million households gave the impression that the register's creation is arbitrary, subjective and vulnerable to manipulation. This is worrisome because over time the President showed by his conduct that his official actions were swayed more by his ethnic loyalty than by nationalistic feelings.⁶⁶

Again, the government's frequent use of the term 'vulnerable' to describe those eligible for palliatives is worth noting. The term is highly subjective. The government was unable to devise an objective or a fairer means of paying palliatives and demonstrated such inability by simply relying on the NSR and approximated the most vulnerable to the 'poorest of the poor'. But did the government refer to the word within the context of the lockdown period or before then? If it is the latter, there may be less argument about the identity of the vulnerable. But, if it is the former, then the term's meaning or description must change to reflect the fact that the lockdown made many people, who previously were not vulnerable, vulnerable. According to the WHO, 'vulnerability is the degree to which a population, individual or Organisation is unable to anticipate, cope with, resist and recover from the impacts of disasters'.⁶⁷ Omo-Ehiabhi Eranga explains that vulnerability arises when an individual is unable to cater for himself/herself or family because of a prevailing situation he/she is faced with and concludes that the vulnerable would necessarily include persons who have been asked to remain indoors; lost their jobs; locked behind

65 'Address by HE Muhammadu Buhari, President of the Federal Republic of Nigeria on the extension of COVID-19 lockdown at the State House, Abuja' *Pulse* 13 April 2020 <https://www.pulse.ng/news/local/coronavirus-full-text-of-buharis-broadcast-extending-covid-19-lockdown/j045t3r> (accessed 16 April 2020).

66 See, eg 'Your nepotism pushing Nigeria to the brink, Umar warns Buhari' *Guardian* 1 June 2020 <https://guardian.ng/news/your-nepotism-pushing-nigeria-to-the-brink-umar-warns-buhari/> (accessed 10 April 2021).

67 WHO 'Vulnerable groups' https://www.who.int/environmental_health_emergencies/vulnerable_groups/en/ (accessed 17 September 2020).

bars; and those having health challenges; etc.⁶⁸ Therefore, it is patently unfair for the government to have denominated vulnerability by referencing only the pre-pandemic circumstances of the ‘poorest of the poor’.

3.3 Food distribution

Another way the government tried to alleviate the difficulty the pandemic caused was by distributing food items. In April 2020, the Federal Government announced that 77 000 metric tons of food would be distributed to vulnerable households affected by the lockdown in Lagos, Ogun, and Abuja.⁶⁹ Also, it continued the Home Grown School Feeding Programme aimed at addressing malnutrition and ensuring that schoolchildren received adequate food rations during the COVID-19 pandemic.⁷⁰ Many states followed suit. In March 2020, the Lagos State government said it would provide food packages to 200 000 households during the lockdown,⁷¹ while in April 2020, the Rivers State Government announced its distribution of palliatives to most vulnerable households.⁷² Furthermore, Bauchi State government distributed palliatives to 10 000 beneficiaries,⁷³ whereas the Kaduna State government carried out its second round of distribution.⁷⁴

3.4 Review of social interventions

The Federal and State Governments ultimately decided to provide some palliatives to the people. However, the modalities for distribution were hazy. The Federal Government’s failure to set a standard for identifying the vulnerable resulted in eligibility criteria for receiving palliatives precariously depending on the distributor’s discretion. Thus, the HADMSD Minister

68 I Omo-Ehiabhi Eranga ‘COVID-19 pandemic in Nigeria: palliative measures and the politics of vulnerability’ (2020) 9 *International Journal of Maternal and Child Health and AIDS* 222, citing *Business Day*, a national daily of 19 April 2020.

69 ‘Nigeria: Protect most vulnerable in COVID-19 response’ *Human Rights Watch* 14 April 2020 <https://www.hrw.org/news/2020/04/14/nigeria-protect-most-vulnerable-covid-19-response> (accessed 27 June 2020).

70 Awofeso & Irabor (n 2) 677.

71 ‘Nigeria: Protect most vulnerable’ (n 69).

72 ‘Rivers govt distributes palliative to riverine community’ *Premium Times* 14 May 2020 <https://www.premiumtimesng.com/regional/south-south-regional/392753-rivers-govt-distributes-palliative-to-riverine-community.html> (accessed 28 November 2020).

73 ‘COVID-19: Bauchi Govt. distributes palliatives to 10,000 beneficiaries’ *Wikki Times* 10 June 2020 <https://wikkitimes.com/2020/10/06/covid-19-bauchi-govt-distributes-palliatives-to-10000-beneficiaries/> (accessed 28 November 2020).

74 ‘Kaduna govt distributes 2nd round of COVID-19 palliative’ *Radio Nigeria* 5 August 2020 <https://www.radionigeria.gov.ng/2020/08/05/kaduna-govt-distributes-2nd-round-of-covid-19-palliative/> (accessed 28 December 2020).

devised ridiculous criteria for eligibility such as the beneficiary's ability to only recharge his/her mobile phone with N100 or less, his/her bank account balance not exceeding N5 000, and social registers.⁷⁵ But these base criteria fell short of standard indicators – including disability status, income, employment and education – for measuring household poverty.⁷⁶

There are serious indications that distribution was based on standards detached from principles of justice and equity.⁷⁷ There were reports of large-scale inadequacies,⁷⁸ secrecy⁷⁹ and discriminatory sharing of palliatives along ethnic lines with most parts of the South-East and South-South left out of the distribution.⁸⁰ Such selective distribution was not just symptomatic of the endemic corruption in Nigeria but probably a reflection of President Buhari-led administration's partisanship or nepotistic considerations in the distribution of rights, privileges and favours across the country⁸¹ in favour of the Northern part of Nigeria (where he hails from) to the Southern part's detriment⁸² in violation of the constitutional

75 'Nigeria: govt to give below N5,000 account holders palliatives' *All Africa* 16 April 2020 <https://allafrica.com/stories/202004160143.html> (accessed 23 November 2020).

76 World Bank 'Nigeria Economic Report' (No 2) (2014) <http://documents.albankaldawli.org/curated/ar/337181468100145688/pdf/896300WP0Niger0Box0385289B00PUBLIC0.pdf> (accessed 21 June 2020).

77 Ndimele (n 36) 219: '[T]he distribution of palliatives in the 36 states of the federation including Abuja has been characterised by several flaws and has not been done with the best practices. It has been reported that while some states got about ten billion naira (#10, 000,000,000), others did not receive any thing either in cash or in kind'.

78 'Lamentation still trails Lagos, FG's palliative package as middlemen hijack programme' *Business Day* 19 April 2020 <https://businessday.ng/features/article/lamentation-still-trails-lagos-fgs-palliative-package-as-middlemen-hijack-programme/> (accessed 28 November 2020).

79 'FG's COVID-19 palliatives: Why Nigerians are not feeling the impact' *Guardian* 8 August 2020 <https://guardian.ng/saturday-magazine/fgs-covid-19-palliatives-why-nigerians-are-not-feeling-the-impact/> (accessed 27 November 2020).

80 'COVID-19: 'Southeast not benefiting from federal government's palliatives' *Guardian* 18 April 2020 <https://guardian.ng/politics/covid-19-southeast-not-benefiting-from-federal-governments-palliatives/> (accessed 10 April 2021); and 'COVID-19: Niger Delta people marginalized in distribution of FG's palliative – Group alleges' (30 April 2020) <https://nkirukanistoran.com/covid-19-niger-delta-people-marginalized-in-distribution-of-fgs-palliative-group-alleges/> (accessed 30 September 2023).

81 'Your nepotism pushing Nigeria to the brink, Umar warns Buhari' (n 66); J Ndukwe 'Buhari: Nepotism as the new definition of merit' *The Nigerian Voice* 28 January 2019 <https://www.thenigerianvoice.com/news/275112/buhari-nepotism-as-the-new-definition-of-merit.html> (accessed 27 November 2020); and 'Leaders of Southern Nigeria sues Buhari for nepotism' *Journalist* 101 22 June 2020 <https://journalist101.com/2020/06/22/leaders-of-southern-nigeria-sues-buhari-for-nepotism/> (accessed 26 November 2020).

82 For political convenience, the country is categorised into six geo-political zones, namely, North-West, North-Central, North-East, South-West, South-South and South-East.

principle of federal character.⁸³ According to an International Centre for Investigative Reporting (ICIR) report, those who benefitted from the Conditional Cash Transfer included 561 758 households from the North-west, 321 434 (North-Central), 109 442 (North-East), 67 696 (South-South), 37 904 (South-West) and 27 977 (South-East).⁸⁴ In other words, a total of 992 634 households in the North (comprising North-West, North-Central and North-East) in contrast with 133 850 households in the South (consisting of South-South, South-West and South-East) benefitted from the Federal Government's social intervention. There is no scientific basis for the Federal Government to have widely discriminated against Nigerians of Southern descent because every geo-political zone or state was at the same position at the virus' outbreak. Significantly, the only two states (out of the 36 states of the Federation) President Buhari locked down in his first broadcast on the pandemic were the Southern States of Lagos and Ogun. Yet the Federal Government did not reckon with such speciality in allocating resources to households. Instructively, the report further confirmed that Katsina State, President Buhari's state of origin, had the highest number of beneficiaries – 133 227, whereas the number of beneficiaries in the entire South-West geopolitical zone was only 27 977.

Moreover, the distribution process was politicised.⁸⁵ For example, Awofeso and Irabor have observed that the distribution process exhibited partisan character, as palliatives were given to party loyalists at the expense of the poor and vulnerable in the society.⁸⁶ The insecurity and arson that followed government's brutal massacre of EndSARS peaceful protesters in October 2020 exposed the government's insincerity in distributing palliatives.⁸⁷ In the midst of such mayhem, angry and hungry Nigerians

83 'Federal character' principle is Nigeria's affirmative action which requires appointments into public offices to be made in such a way that there is no predominance of persons from a few states or a few ethnic groups in the government or any of its agencies. Specifically, sec 14(3) of the CFRN provides that the composition of the Government of the Federation or any of its agencies and the conduct of its affairs shall be carried out in such a manner as to reflect the federal character of Nigeria and the need to promote national unity, and also to command national loyalty, thereby ensuring that there shall be no predominance of persons from a few States or from a few ethnic or other sectional groups in that Government or in any of its agencies.

84 'Abandoned to fate' *This Day Live* 6 July 2020 <https://www.thisdaylive.com/index.php/2020/07/06/abandoned-to-fate/> (accessed 28 November 2020).

85 Eranga (n 68) 222.

86 Awofeso & Irabor (n 2) 683. See also L Njoku et al 'Why controversy over FG's COVID-19 palliatives persists' *Guardian* 26 April 2020 <https://guardian.ng/news/why-controversy-over-fgs-covid-19-palliatives-persists/> (accessed 10 November 2020).

87 The EndSARS protests were street protests peacefully carried out by Nigerian youths against the brutality of Special Anti-Robbery Squad (SARS), an arm of the Nigeria Police Force. The protests, which continued unabated because the youths were

discovered warehouses in several states where food items believed to be COVID-19 palliatives were stored. They vigorously and recklessly plundered the items.⁸⁸ Many state governments explained that the looted items were yet to be distributed because modalities for distribution to the people needed to be worked out.⁸⁹ But even where they are given the benefit of the doubt, it is curious that they never revealed the existence of such items in those warehouses until the mobsters discovered them.

Nevertheless, the government responded to the lockdown through other legislative and executive means. In the case of the former, the House of Representatives passed the Economic Stimulus Bill 2020 on 24 March 2020.⁹⁰ The Bill sought to provide relief, protect jobs and alleviate the financial burdens on citizens in response to the outbreak of the COVID-19 pandemic. Specifically, it aimed to provide 50 per cent tax rebates to formal sector businesses that are registered under the Companies and Allied Matters Act (CAMA) so that the businesses can use the money saved to continue to employ or retain their current workers. However, the Bill was yet to receive the Senate's concurrence. Also, the proposed law did not include informal businesses that make up the bulk of businesses (with about 90 per cent of the workforce) in the country. Thus, the Bill stood no chance of saving many of the workers who lost or would likely lose their jobs. Regarding the latter, the CBN introduced the N50 billion (about US\$128.5m) Targeted Credit Facility (TCF) as a stimulus package to support households and micro, small and medium enterprises (MSMEs)

dissatisfied with government's response, was forcefully ended by the government in series of responses that culminated in what is now known as Lekki Toll Gate Massacre of 20 October 2020: Amnesty International 'Nigeria: the Lekki Toll Gate massacre – New investigative timeline' (28 October 2020) <https://www.amnesty.org/en/latest/news/2020/10/nigeria-the-lekki-toll-gate-massacre-new-investigative-timeline/> (accessed 27 November 2020); and A Ishiekwene 'The 'Lekki Toll Gate' massacre and what it means for Nigeria' *InDepthNews* 22 October 2020 <https://indepthnews.net/index.php/opinion/3935-the-lekki-toll-gate-massacre-and-what-it-means-for-nigeria> (accessed 27 November 2020).

88 'Angry citizens loot COVID-19 palliatives warehouses' *This Day Live* 26 October 2020 <https://www.thisdaylive.com/index.php/2020/10/26/angry-citizens-loot-covid-19-palliatives-warehouses/> (accessed 30 November 2020).

89 See, eg K Sanni 'Governors deny hoarding CACOVID palliatives; explain storage of looted food items' Nigeria Governors' Forum <http://ngf.org.ng/index.php/73-featured-news/1812-governors-deny-hoarding-cacovid-palliatives-explain-storage-of-looted-food-items> (accessed 23 November 2020); and 'Governors deny hoarding CACOVID palliatives – Explain storage of looted food items' *AllAfrica* 26 October 2020 <https://allafrica.com/stories/202010260433.html> (accessed 27 November 2020).

90 'House of Representatives passes Emergency Economic Stimulus Bill 2020' *PLAC* 24 March 2020 <https://placng.org/i/house-of-representatives-passes-emergency-economic-stimulus-bill-2020/> (accessed 17 August 2020).

affected by the COVID-19 pandemic.⁹¹ The package also offered a 3 million Naira credit to poor families COVID-19 had impacted.⁹² But because the loan required collateral and was not interest-free, many households could not meet these conditions because of their precarious economic status.

The foregoing demonstrates that behind the government's façade of responsibility and appropriate lockdown declarations were its abandonment of its primary purpose of catering for the welfare of citizens forced to stay indoors by circumstances beyond their control. The government appeared to have forgotten its obligation to take positive steps to provide for citizens but when it finally remembered, the government created a palliative process that was grossly inadequate and heavily politicised to favour a few party loyalists. Amidst the outcry of Nigerians over the government's insensitivity to their plight, the government made ambiguous statements: claiming that it was paying palliatives to the most vulnerable or to the poorest but failed to tell Nigerians that such payments were pursuant to an arrangement that predated the pandemic's outbreak. Indubitably, the government's insincerity in distributing palliatives was exposed when disenchanted Nigerians discovered the large COVID-19 or CACOVID-19 foodstuffs that the government failed to share to them promptly.

The next section discusses the manifestations of the country's failure to provide palliatives to alleviate the plight of citizens caught in the web of the lockdown.

4 Manifestations of the failure of Nigeria's social intervention

The government's failure to meet the precarious needs of the citizens in the face of the lockdown was betrayal of the tripartite social compact or contract that exists between the state, government and citizens. Such contract is adumbrated in Thomas Hobbes, John Locke and Rousseau's ancient theories⁹³ and, in modern day governance, contained in every state's basic constitution which, in Nigeria's case, is the CFRN 1999. Chapter II of the CFRN obligates the government to provide the people's welfare needs. While such duty is heightened in the event of an emergency (such as the COVID-19 pandemic), the government's conduct

91 'Guidelines for the implementation of the N50 billion targeted credit facility' *CBN* 23 March 2020 <https://www.cbn.gov.ng/Out/2020/FPRD/N50%20Billion%20Combined.pdf> (accessed 12 October 2020).

92 As above.

93 See, eg Frimpong, Jones & Esedo (n 55) 65-68.

and statements showed an abandonment of its duty and, ultimately, the welfare of the people. The discussion in the sub-sections below focuses on such conduct detrimental to second generation rights of citizens, violating the rules of transparency and accountability, worsening citizens' standard of living and boosting insecurity of lives and property.

4.1 Conduct detrimental to the realisation of second generation rights of citizens

The government's failure to meet the welfare needs of the citizens is contrary to the citizens' social, economic and cultural rights (second generation rights) contained in the International Covenant on Economic, Social and Cultural Rights 1966.⁹⁴ Under article 2(1) of the Covenant, each state party undertakes to take steps, individually and through international assistance and co-operation to the maximum of its available resources with a view to progressively achieving the full realisation of the rights by all appropriate means, particularly the adoption of legislative measures. The African Charter on Human and Peoples' Rights (ACHPR)⁹⁵ provides much the same.⁹⁶ Nigeria has ratified and domesticated the provisions of both international instruments.⁹⁷ The government's failure to meet the welfare or material needs of the citizens is contrary to the obligations the state undertook under the Conventions and the compact expressed in the CFRN.

Truly, the Nigerian economy critically depends on proceeds from oil revenue and the government has been complaining of a cash crunch due to the fall in oil prices in the world market. But to overcome the shortfall, the government sourced funds domestically and internationally in the form of loans, grants or donations. Notably, the implication of article 2(1) of the ICESCR 1966 is that each state is required to prudently and equitably use its available resources to sustain and develop its citizens. However, in the midst of all these, there are no records to show that the executive and the legislative arms of government judiciously managed available resources or fairly distributed palliatives. For example, as donations were streaming in for the government to use to provide palliatives, the Minister of Information made statements that gave the average person the impression

94 Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 entry into force 3 January 1976.

95 Adopted on 27 June 1981 and entered into force on 21 October 1986.

96 See, eg, arts 2 and 22.

97 Nigeria ratified the ICESCR on 29 July 1993 and the ACHPR on 22 June 1983. Similarly, the country domesticated the ICESCR through Cap II of the CFRN 1999 and the ACHPR vide the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act 1986, Cap A9, LFN 2004.

that the government was using the pandemic as a decoy to engage in questionable, wasteful and extravagant expenditure. The Minister claimed that the government had disbursed N100 billion nationwide. He did not state the number of beneficiaries except that the distribution was based on existing record.⁹⁸ Also, the unpopular government's decision to construct railway lines from Kano in Kano State to Maradi in Niger Republic worth US\$1.959 billion⁹⁹ in the midst of the pandemic was particularly confounding. There is equally no sign that the National Assembly (comprising the Senate and House of Representatives) made a downward revision of its extravagant expenditure. For instance, it was at the lockdown's peak that the 360-member House of Representatives received luxury or exotic cars for their personal or official use (even when they already have functional cars).¹⁰⁰ Similarly, there is no evidence that the National security votes which the President and 36 State Governors collect every month for security purposes were ever made available to secure and sustain the people's livelihood.¹⁰¹ In summary, the politicians' opulence contrasts sharply with the penury of the rest even at the expense of the citizens' survival.

4.2 Violating the rules of transparency and accountability

International instruments against corruption including the United Nations Convention against Corruption 2003 and the African Union Convention on Preventing and Combating Corruption 2003 mandate every state party to observe transparency and accountability rules in handling common or public resources. Nigeria is a state party to both Conventions. Pursuant to its anti-corruption commitment, the country has enacted a cluster of anti-corruption laws including the Independent Corrupt Practices Commission (ICPC) Act 2000, the Economic and Financial Crimes Commission (EFCC) Act 2004, the Criminal Code, and the Penal Code, amongst other

98 See 'Managing Nigeria's funds in the coronavirus era' *Business Day* 9 April 2020 <https://businessday.ng/editorial/article/managing-nigerias-funds-in-the-coronavirus-era/> (accessed 17 January 2021). However, the minister later denied making such statement: 'COVID-19: FG is not sharing N100billion to Nigerians, Lai Mohammed warns' *Daily Times* 6 April 2020 <https://dailytimes.ng/covid-19-fg-is-not-sharing-n100billion-to-nigerians-lai-mohammed-warns/> (accessed 28 February 2021).

99 'FG Approves \$1.959bn for rail construction to Niger Republic' *This Day Live* 24 September 2020 <https://www.thisdaylive.com/index.php/2020/09/24/fg-approves-1-959bn-for-rail-construction-to-niger-republic/> (accessed 2 April 2021).

100 'Despite COVID-19 outbreak, reps take delivery of exotic cars' *Intelregion* 27 March 2020 <https://www.intelregion.com/news/politics/despite-covid-19-outbreak-reps-takes-delivery-of-exotic-cars/> (accessed 2 April 2021).

101 'President, govts, spend over N241bn on security votes yearly –TI' *Punch* 6 September 2018 <https://punchng.com/president-govts-spend-over-n241bn-on-security-votes-yearly-ti/> (accessed 15 March 2021).

specific anti-corruption laws. Incidentally, while the government prides itself on proficiency in fighting corruption, it was very secretive with information relating to its COVID-19 expenditure. In fact, the government ignored its anti-corruption commitments for months when it had to take financial steps to fight the COVID-19 outbreak.¹⁰²

Therefore, when the government took the \$3.4 billion loan from the IMF,¹⁰³ civil society organisations (CSOs) called on both the Nigerian government and the IMF to ensure ‘full transparency, openness and accountability in the application’ of the loan.¹⁰⁴ Against the backdrop of Nigeria’s notoriety for corruption, the IMF’s mission chief for Nigeria, Amine Mati, stated that the:

Nigerian Government had committed to undertake an independent audit of crisis mitigation spending and related procurement processes, as well as to publish procurement plans and notices for all emergency response activities which include the names of companies that were awarded the contracts and the beneficial owners.¹⁰⁵

In response to the citizens’ outcry about the lack of transparency rules for handling public funds, the government activated the Financial Transparency Policy and Implementing Guidelines (Guidelines) 2019,¹⁰⁶ which was geared toward boosting transparency and fighting corruption and created the Open Treasury website to disseminate all relevant information to the public. Pursuant to the Guidelines, the Office of the Auditor-General of the Federation was obliged to publish a COVID-19

102 In early September 2020, the Federal Government finally stated that it spent N30.5BN between April and July to boost the fight against COVID-19 pandemic in Nigeria. But it is important to note that the government did not do this voluntarily but in response to the 10 August 2020 Freedom of Information request by NGOs, Socio-Economic Rights and Accountability Project (SERAP) and Connected Development. See ‘FG spent N30.5BN on COVID-19 in four months’ *Healthwise* 6 September 2020 <https://healthwise.punchng.com/fg-spent-n30-5bn-on-covid-19-in-four-months/> (accessed 12 March 2021).

103 The IMF’s financial assistance to Nigeria was meant to support the healthcare sector, stabilise the economy, and protect jobs and businesses that have been severely impacted by the pandemic. ‘Measures introduced by Nigeria to ensure transparent use of the \$3.4 billion IMF loan’ *Nairametrics* 1 June 2020 <https://nairametrics.com/2020/06/01/measures-introduced-by-nigeria-to-ensure-transparent-use-of-the-3-4-billion-imf-loan/> (accessed 10 April 2021).

104 ‘Press statement – IMF COVID-19 loan to Nigeria’ (4 May 2020) <https://nigeria.oxfam.org/latest/press-release/press-statement-imf-covid-19-loan-nigeria> (accessed 17 February 2021).

105 Measures introduced by Nigeria (n 103).

106 Open Treasury ‘Policy objectives’ <https://opentreasury.gov.ng/index.php/about-open-treasury/the-mandate> (accessed 3 April 2021).

Daily Treasury Statement¹⁰⁷ outlining all the inflows and outflows into the COVID-19 Fund. Specifically, the Guidelines required the inflow information to indicate the source of the funds and the outflow information to specify the Ministry, Department or Agency (MDA) responsible for each withdrawal from the Fund. Open Treasury is a good anti-corruption initiative. Nevertheless, as at 10 October 2020, the Federal Government of Nigeria (FGN) was listed as the MDA throughout the website. The goal of transparency would have been better served if the specific MDA was named. Also, the online treasury statements were only available for four consecutive months, April to July 2020. There was no update as to what happened before or after those months. Moreover, the daily payment report was not functional. Furthermore, under the Freedom of Information (FOI) Act 2011, it is mandatory for all participating MDAs to provide information on all COVID-19 Fund transactions to any member of the public – individual or corporate – within 7 days of receiving the request.¹⁰⁸ However, despite the utility of these provisions, alone they are insufficient to achieving transparency and accountability in governance. The public should not have to invoke the FOI Act before information about public expenditure is publicised. Also, the government conveniently side-lined civil society from monitoring the activities of the spenders of the resources meant to manage the pandemic.

4.3 Worsening citizens' standard of living

Notwithstanding the socio-political and economic disruption Nigerians faced due to the COVID-19 pandemic and consequent lockdown, the government demonstrated its utter disregard for citizens' welfare by arbitrarily increasing the price of basic goods. For example, it unilaterally deregulated the downstream oil sector, which led to the increase of petrol (PMS) pump price per litre from N145 to around N160 by marketers¹⁰⁹ and, subsequently with effect from 13 November 2020, the pump price

107 Open Treasury 'COVID-19 daily treasury statement' <https://opentreasury.gov.ng/index.php/component/content/article/98-covid19/3931-covid-19-daily-treasury-statement?Itemid=101> (accessed 3 March 2021).

108 Framework (n 60).

109 'Nigerians lament fuel price increase as govt scraps subsidy' *Premium Times* 4 September 2020 <https://www.premiumtimesng.com/news/headlines/412383-nigerians-lament-fuel-price-increase-as-govt-scraps-subsidy.html> (accessed 27 February 2021).

was increased to sell between N165 and N173.¹¹⁰ Almost simultaneously, the government also increased electricity tariff.¹¹¹

Instructively, apart from Maslow's hierarchy of needs, petrol and electricity are critical to Nigerians' daily survival. Over the years, the government has failed to effectively harness these products for the maximum benefit of Nigerians. The Nigeria National Petroleum Corporation (NNPC) and Power Holding Company of Nigeria (PHCN) have been so burdened by endemic corruption that any right-thinking person would conclude that these institutions are completely unscrupulous. Power supply is still epileptic all over Nigeria and people supplement such inadequacy by purchasing petrol every day to power their homes, businesses and vehicles. Nevertheless, in tackling the problems confronting the economic lives of the people, previous governments have always taken steps that reflect the reality of Nigerians' precarious dependence on petrol and electricity by balancing the need to deregulate the economy with Nigerians' economic survival. Yet in enacting its economic policies, the Buhari government did not consider the hardship Nigerians were facing, even though the Administration rose to power on the promise of ameliorating the people's hardship. The fact that the government took such unpopular decision while average Nigerians grappled with the socio-economic turmoil the pandemic was causing was incredible. Consequently, the domino effects of the increases in the prices of both products triggered astronomical price increases for goods and services across board. As the rising cost of living became prohibitive and unbearable, the standard of living was also at a very low ebb.

4.4 Acquiescing in anarchy

While Nigerians were dealing with lockdown-related problems and the realisation that the government they have entrusted the country with may be incompetent, they were ceaselessly confronted with the government's failure to stop armed non-state actors from taking the laws into their hands.¹¹² A typical Westphalian state like Nigeria possesses monopoly of

110 'NNPC increases petrol depot price, marketers to sell at N165-N173 per litre' *Nairametrics* 13 November 2020 <https://nairametrics.com/2020/11/13/just-in-nnpc-increases-petrol-depot-price-marketers-to-sell-at-n165-n173-per-litre/> (accessed 26 March 2021).

111 'Why electricity tariff was increased – President Buhari – speaks on estimated billing' *Naija Business* 7 September 2020 <https://www.naijabusiness.com.ng/news/2020/why-electricity-tariff-was-increased-president-buhari-speaks-on-estimated-billing/> (accessed 3 April 2021).

112 'Buhari has failed Nigerians on security – Anglican bishop' *Punch* 29 August 2020 <https://punchng.com/buhari-has-failed-nigerians-on-security-anglican-bishop/>

violence.¹¹³ But Nigeria was besieged by violent non-state actors (VNSAs), namely, Boko Haram terrorist group, militant Fulani herdsmen, bandits, etc.¹¹⁴ These heavily armed actors terrorised Nigerians and carried out genocidal attacks across the country.¹¹⁵

Incidentally, in all these killings, the government either failed to act or treated the perpetrators with kid gloves while simultaneously aggrandising its efforts to arrest the situation. Notwithstanding the government's massive security failure, it effortlessly rebuffed any suggestions from well-meaning Nigerians to restore peace and security however reasonable or genuine they were. Such suggestions included restructuring the country for optimal results. Although the government's primary purpose is the security or preservation of life, the Buhari Administration simply failed in this regard. Its indirect complicity in the anarchists' unbridled criminal activities and genocidal acts compounded Nigerians' misfortune during the COVID-19 pandemic.

4.5 Summary

From the above discussion, it is clear that because of how the government planned and executed its measures, the government's social intervention to tackle the pandemic failed. Social interventions must have the potential to effect structural changes in Nigeria. Structural change refers to a dramatic shift in the way a country, industry, or market operates that is usually brought on by major economic developments. The pandemic was a perfect setting for the Nigerian government to use social intervention to effect structural changes. Although the government used the opportunity to attempt some economic reforms at the macro-economic level, the results were not seen. Even though the domain where social intervention could have triggered the most structural change was at the micro-level, the citizens' expectations were outrightly dashed by a government that abandoned its responsibility to provide for the people's welfare and security. Essentially, because the government failed to meet the citizens' welfare needs the government's social intervention could not translate into

(accessed 15 April 2021).

113 See R Chaudhry 'Violent non-state actors: Contours, challenges and consequences' (Winter 2013) *CLAWS Journal* 168 at 173.

114 See, eg 'Bloody January! Boko Haram, bandits, herdsmen, others kill over 320' *Vanguard* 2 February 2020 <https://www.vanguardngr.com/2020/02/bloody-january-boko-haram-bandits-herdsmen-others-kill-over-320/> (accessed 9 April 2021).

115 EU Ochab 'Is genocide happening in Nigeria as the world turns a blind eye?' *Forbes* 15 June 2020 <https://www.forbes.com/sites/ewelinaochab/2020/06/15/is-genocide-happening-in-nigeria-as-the-world-turns-a-blind-eye/#2a06b4745405> (accessed 17 March 2021).

structural change. Rather, the government's conduct generated negative feelings that alienated the citizenry from both the government and the country.

5 Conclusion

This chapter examined the failure of social interventions the Nigerian government introduced to ameliorate hardship associated with the COVID-19 pandemic. The chapter considered the palliative measures the government implemented, including paying cash and distributing food items to the poorest and most vulnerable Nigerians. However, the chapter finds that although both international and domestic law impose a duty upon the Nigerian State to care for citizens' welfare needs, the government's conduct and statements betrayed its willingness to act inconsistently with its duties. Its intervention was so inadequate, irregular and politicised that the so-called social interventions were placative and merely illusory rather than effective action that could have helped the citizens. The lockdown was an opportune time for the government to tailor its social interventions towards effecting positive structural changes in the country but it failed woefully to do so. This failure left an indelible scar on the memory of most Nigerians who are sadly reminded that their government cannot assist them when needed. The chapter observed that the government's failure to discharge its responsibility manifested in ignoring citizens' second-generation rights, transparency and accountability rules, worsening citizens' standard of living and fanning the embers of anarchy.

Finally, genuine social intervention can only produce positive structural changes when, even with lean resources, the government genuinely and transparently distinguishes itself to provide for the welfare of citizens especially in times of emergency.

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