

# 10

## COVID-19 AND RESTRICTIONS TO THE RIGHT TO FREEDOM OF MOVEMENT IN NIGERIA

*Wole Kumuji\**

### **Abstract**

The right to freedom of movement is expressly enshrined in section 41 of the 1999 Constitution of the Federal Republic of Nigeria. The right is also guaranteed in the International Covenant on Civil and Political Rights (1966) and the African Charter on Human and Peoples' Rights (1981), both of which apply in Nigeria and contain provisions that protect the right from arbitrary or frivolous infringement by the State. In a long line of cases, the Nigerian courts have established the sacrosanct and inviolable nature of the right to freedom of movement. However, the recent coronavirus pandemic provoked a litany of disruptions that threatened the security of this important right. In the pandemic's wake, the Federal Government of Nigeria imposed a series of intra-State lockdown measures ostensibly aimed at curtailing the virus's rapid spread. These measures severely curtail and abrogate the right to freedom of movement, with deleterious consequences for the liberty, livelihood, and psychological well-being of many citizens. The restrictions imposed on the freedom of movement raise several legal questions, most of which are yet to be sufficiently explored in the literature on this subject. Adopting a comparative analysis methodology, this chapter examines the nature and validity, under international law, of restrictions imposed on citizens' right to freedom of movement during a public health emergency, such as the COVID-19 pandemic. The chapter will also examine the extent to which such restrictions, if valid under international law, can be used to curtail citizens' right to freedom of movement. Drawing on the international human rights regime, as well as the interpretive commentaries of the United Nations Human Rights Committee, suggestions will be made

\* Wole is a Constitutional and International Law specialist. He holds a Masters of Public International Law (LLM) from the University of Cambridge, UK, where he was a Commonwealth and Cambridge Trust Scholar from 2010 to 2011. LLM (Cantab), PhD (Warwick), Commonwealth Scholar & Associate Fellow, UK Higher Education Academy. Lecturer, Department of Jurisprudence and International Law, University of Lagos, Nigeria.

on how to address noticeable gaps in the existing COVID-19 regime in Nigeria. The chapter will focus on the adoption of approaches that reflect Nigeria's peculiarities without contravening international human rights standards.

## 1 Introduction

Following the World Health Organisation (WHO)'s declaration of the coronavirus outbreak as a 'public health emergency of international concern' in January 2020,<sup>1</sup> governments around the world imposed various forms of restrictions within their borders to curtail the virus's spread and save the lives of millions of their nationals. However, these restrictions raise serious human rights issues that must be carefully interrogated in light of the grave implications they have on preserving and determining these rights. It is well known that while it is permissible for governments to take precautionary or derogation measures during public health emergencies to protect their citizens, such measures must not be inconsistent with the obligation to respect and protect human rights.<sup>2</sup>

This chapter examines the legal and policy implications of the restrictions the Nigerian government imposed on citizens' right to freedom of movement since the coronavirus outbreak. Proceeding on the notion that human rights are indivisible and interdependent,<sup>3</sup> it is obvious that the right to freedom of movement is important and has significant implications for the enjoyment of other rights. As a result, the protection

1 World Health Organization 'Timeline: WHO's COVID-19 response' (30 August 2020) <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/interactive-timeline> (accessed 1 September 2020).

2 Article 4(1) of the UN General Assembly, International Covenant on Civil and Political Rights, 16 December 1966, United Nations, Treaty Series, vol 999, p 171 (ICCPR). See also art 4 of the UN General Assembly, International Covenant on Economic, Social and Cultural Rights, 16 December 1966, United Nations, Treaty Series, vol 993, p 3 (1966) (ICESCR); UN Human Rights Committee (HRC), CCPR General Comment 29; Article 4: Derogations during a State of Emergency, 31 August 2001, CCPR/C/21/Rev.1/Add.11 (2001) para 9; RMM Wallace *International law* (2005) 234-235; EJ Criddle & E Fox-Decent 'Human rights, emergencies, and the rule of law' (2012) 34 *Human Rights Quarterly* 39 at 49.

3 The idea that human rights are indivisible and interdependent is well established in the literature. See for instance L Minkler & S Sweeney 'On the indivisibility and interdependence of basic rights in developing countries' (2011) 33 *Human Rights Quarterly* 351 at 353-354. See also Wallace (n 2) 228; UN General Assembly, Vienna Declaration and Programme of Action, 12 July 1993, A/CONF.157/23 (1993) <https://www.ohchr.org/en/professionalinterest/pages/vienna.aspx> (accessed 3 October 2020); Preamble, para 8 of the Organization of African Unity (OAU), African Charter on Human and Peoples' Rights (Banjul Charter), 27 June 1981, CAB/LEG/67/3 rev 5, 21 ILM 58 (1982); J Donnelly 'Human rights as natural rights' (1982) 4 *Human Rights Quarterly* 391 at 402.

of this right must be guaranteed and enforced if citizens are to enjoy other rights.

Section 2 briefly analyses the nature of human rights, provides the conceptual framework, and sets the tone for the discussions that follow in the other sections of this chapter. In section 3, the chapter focuses on the right to freedom of movement, a right enshrined in several international instruments and the Nigerian Constitution. The discussion in this section pays attention to the content and scope of this right. It further considers whether there are instances where limitations on this right are permissible and legally acceptable. In discussing this, the chapter reviews the international human rights regime and relevant commentaries of the United Nations Human Rights Committee (UNHRC) on the freedom of movement. Section 4 considers the extent to which Nigeria has complied with international law and best practices in protecting the right to freedom of movement since the coronavirus outbreak. Drawing from the existing international legal regime and the authoritative commentaries of the United Nations Human Rights Committee, the last section of the chapter makes legal, institutional, and policy recommendations to henceforth enhance respect for the right to freedom of movement in Nigeria during a public health emergency.

## 2 The nature of human rights

Identifying a universal, one-size-fits-all theory of human rights is a futile exercise. There is no single theory that completely and exhaustively captures the multifarious nuances of the subject of rights.<sup>4</sup> There are as many conceptualisations as there are theorists. This does not mean that the concept is completely indeterminate. As far back as the 17th century, scholars and philosophers extensively probed and interrogated the subject. For instance, in his *Two treatises of government*, first published in 1689, Locke articulated a theory of natural rights with human nature at its core.<sup>5</sup> Scholars like Paine, in his widely acclaimed 1791 classic, *Rights of man*, further developed this *Lockean* postulate.<sup>6</sup> In it, Paine vigorously advanced a theory of natural rights which identifies human rights as ‘those rights

4 FD Miller Jr ‘Aristotle and the origins of natural rights’ (1996) 49 *The Review of Metaphysics* 873. See also Wallace (n 2) 225; MN Shaw *International law* (2003) 247; D Harris *Cases and materials on international law* (2005) 537.

5 J Locke *Two treatises of government: A critical edition with introduction and notes by Peter Laslett* (1960) II.25, cited in SG Swanson ‘The medieval foundations of John Locke’s theory of natural rights: Rights of subsistence and the principle of extreme necessity’ (1997) 18 *History of Political Thought* 399.

6 T Paine *Rights of man* (1996) 1-226.

which pertain to man in kind of his existence'.<sup>7</sup> In essence, they are rights that belong to him in his natural state as a man. Political or civil society does not confer these rights on man. They are rights that naturally belong to him by virtue of his existence.<sup>8</sup> These rights include

all the intellectual rights, or rights of the mind, and also all those rights of acting as an individual for his own comfort and happiness, which are not injurious to the natural rights of others.<sup>9</sup>

Contemporary advocates of the natural rights theory affirm Paine's conceptualisation of the subject. For instance, in one of his most popular articles, Professor Hart, asserted that men possess natural rights as a result of their existence. Society does not confer these rights upon them. Rather, they are rights all humans possess, independent of society.<sup>10</sup> Donnelly, another scholar, articulates this point more clearly. According to him, human rights are natural 'in the sense that their source is the human nature'.<sup>11</sup>

Given that human nature is the same everywhere, all humans inherently possess and can lay claim to these rights.<sup>12</sup> Hart's clarification that although men inherently possess natural rights, these rights are not necessarily absolute, further strengthens his thesis. The rights may not be exercised in ways that are detrimental or harmful to the rights of others. Additionally, the exercise of these rights may lawfully be limited or constrained in the public interest when the need arises.<sup>13</sup>

### 3 The right to freedom of movement

The right to freedom of movement is enshrined in all the major international human rights treaties as well as in many national constitutions. Article 13

7 Paine (n 6) 33.

8 Paine (n 6) 33. See also PF Boller 'Thomas Paine and natural rights: A reconsideration' (1977) 52 *Social Science* 67 at 67-68.

9 Paine (n 6).

10 HLA Hart 'Are there any natural rights?' (1955) 64 *The Philosophical Review* 175 at 175-176. For a similar view, see also, *Saude v Abdullahi* (1989) 4 NWLR, Part 116, 387 at 418-419, cited in K Eso *Further thoughts on law and jurisprudence* (2003) 138.

11 Donnelly (n 3 ) 391. See also SS Juss 'Free movement and the world order' (2004) 16 *International Journal of Refugee Law* 289 at 291-292; B Nwabueze *Constitutional democracy in Africa* Vol 2 (2003) 3; Preamble, para 6 of the African Charter on Human and Peoples' Rights.

12 Donnelly (n 3) 398.

13 Hart (n 10).

of the Universal Declaration of Human Rights (UDHR), for example, provides for this freedom as follows:

- (1) Everyone has the right to freedom of movement and residence within the borders of each State.
- (2) Everyone has the right to leave any country, including his own, and to return to his country

Article 12 of the International Covenant on Civil and Political Rights (ICCPR) and article 12 of the African Charter on Human and Peoples' Rights (ACHPR) contain similar provisions. Article 2 of the 4th Protocol to the European Convention on Human Rights also contains a similar provision relating to this right. Judging from its prominent inclusion in the major international human rights documents, universal and regional, the international community attaches significant importance to the protection and enforcement of this right. However, it is one thing to recognise and guarantee a right and it is another to give it adequate effect. To protect and enforce the right to freedom of movement, one must first understand the right's nature and scope. Essentially, it is pertinent to identify the nature, content, and scope of this right to make its enforcement realistic and practicable.

### 3.1 Nature of the right to freedom of movement

In the discussion on natural rights in section 2, this category of rights was described as those possessed by humans because of their existence. They are rights inherent in the person, and without which a human being may be unable to realise his full potential. Human beings cannot sustain a meaningful existence if they are unable to move from one place to another. Unconstrained and unfettered movement is a major existential condition for human survival.<sup>14</sup> Against this backdrop, the right to freedom of movement is inherent in the human, because life will truly be meaningless and unsustainable without this freedom.<sup>15</sup> Emphasising the right's significance in his commentaries on the Law of England, Blackstone succinctly wrote that

next to personal security, the law of England regards, asserts, and preserves the personal liberty of individuals. This personal liberty consists in the power of locomotion, of changing situation, or removing one's person to whatsoever

14 Juss (n 11) 289.

15 Paragraph 1 of the UN Human Rights Committee (HRC), CCPR General Comment 27: Article 12 (Freedom of Movement), 2 November 1999, CCPR/C/21/Rev.1/Add.9 (1999).

place one's own inclination may direct; without imprisonment or restraint, unless by due course of Law<sup>16</sup>

Beyond its characterisation as a natural and fundamental right, it is necessary to also examine the scope and content of this right. This will indicate the extent of its applicability, and the manner of its enforcement in particular situations.

### 3.2 Scope and content of the right to freedom of movement

To understand the scope and content of the right to freedom of movement, article 12(1)-(4) of the ICCPR, which indicates international law's extant position on this subject, is a convenient reference point.<sup>17</sup> This provision stipulates:

- (1) Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.
- (2) Everyone shall be free to leave any country, including his own.
- (3) The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order, public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Covenant.
- (4) No one shall be arbitrarily deprived of the right to enter his own country.<sup>18</sup>

Provisions like the ones outlined above are available in other international human rights instruments such as article 12(1)-(2) of the African Charter on Human and Peoples' Rights.<sup>19</sup>

A person may decide to leave his own country or any other country for any legitimate reason such as to seek medical care elsewhere. Should

16 W Blackstone 'Commentaries 1: 120-41' (1765) <https://press-pubs.uchicago.edu/founders/documents/amendIXs1.html> (accessed 12 October 2020).

17 Note that the International Covenant on Civil and Political Rights is universally recognised as legally binding on all the States that are party to it. See C Harland 'The status of the International Covenant on Civil and Political Rights (ICCPR) in the domestic law of states parties: An initial global survey through UN Human Rights Committee documents' (2000) 22 *Human Rights Quarterly* 187 at 188.

18 Article 12(1)-(4).

19 Article 12(1)-(2) of the African Charter on Human and Peoples' Rights. See also art 2 (Protocol 4) of the Council of Europe, European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols 11 and 14, 4 November 1950, ETS 5 (1950).

the person die because of denial of opportunity to travel, the denial may be tantamount to denying the person's right to life under article 6(1) of the ICCPR.<sup>20</sup> The same goes for a business person the state prevents from travelling to different locations in his or her own country for business purposes. Such a restriction may amount to a direct violation of the right to work under article 6 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). Similarly, a person who cannot leave his or her community to vote in a nearby town may have been denied the right to vote under article 25(b) of the ICCPR. From this perspective, it is easy to see the interconnectedness and interdependence of human rights. Therefore, the right to freedom of movement is a fundamental right that has significant implications for the realisation of other human rights. The fact that protecting the right to freedom of movement is important if human survival and the fulfillment of human potential are to be realised cannot be reiterated enough.

Like most rights, the right to freedom of movement is not absolute and its enjoyment is subject to some limitations. Article 12(3) of the ICCPR states that the right to freedom of movement shall not be subject to restrictions

except those which are provided by law, are necessary to protect national security, public order, public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.<sup>21</sup>

Article 12(3) implies that there may be derogations from the right to freedom of movement under the conditions listed in this clause. The exceptions made to the right to freedom of movement under article 12(3) represent a compromise between the international system's need to protect this right, and states' desire to protect their sovereignty.<sup>22</sup> As enshrined in international instruments, to be realised and protected, human rights

20 The UN Human Rights Committee (HRC), General Comment 36: Article 6 (Right to Life), 3 September 2019, CCPR/C/GC/35 (2019) and UN Human Rights Committee (HRC), CCPR General Comment 14: Article 6 (Right to Life) Nuclear Weapons and the Right to Life, 9 November 1984 emphasised that the right to life set out under art 6 of the ICCPR 'should not be interpreted narrowly'. According to the Committee, the right to life must be interpreted to include 'the entitlement of individuals to be free from acts and omissions that are intended or may be expected to cause their unnatural or premature death'..

21 Article 12(3) of the ICCPR. A similar provision is contained in art 12(2) of the African Charter on Human and Peoples' Rights in respect of the right of an individual 'to leave any country including his own, and to return to his country'.

22 EM Hafner-Burton, LR Helfer & CJ Fariss 'Emergency and escape: Explaining derogations from human rights treaties' (2011) 65 *International Organization* 673 at 676.

require active state cooperation. This cooperation is unlikely to materialise if human rights are expressed in absolute terms with no room for states to exercise some discretion in the public's interest.<sup>23</sup> Indeed, a zero-sum approach to implementing rights is likely to alienate states who are supposed to act as the promoters and custodians of these rights.<sup>24</sup> Thus, while human rights inhere in the person, independent of the state, it is true that realising, promoting, and protecting the rights require the states' active cooperation. This cooperation may not materialise if, in implementing rights, states are completely excluded from exercising utilitarian discretion in the public interest.<sup>25</sup> The exceptions outlined in article 12(3) may be justified. It must be noted, however, that while states may impose some restrictions to the exercise of individual rights in the public interest, the state's discretionary powers are not entirely unfettered. As this chapter discusses later, internationally recognised norms, expressed in judicial decisions, international agreements, and the interpretive commentaries of the Human Rights Committee of the United Nations guides states' exercise of discretion in human rights matters. This is later examined within the right to freedom of movement's context. For now, this section closely examines one of the conditions listed in article 12(3) of the ICCPR, under which, the right to freedom of movement may be restricted, to wit, public health.

### **3.3 Public health limitation to the right to freedom of movement**

Of the conditions listed under article 12(3), the most relevant one for this chapter's purpose relates to the need to protect the health of the public, especially during periods of disease outbreak. The International Health Regulations (2005) define a 'public health risk' as

a likelihood of an event that may affect adversely the health of human populations, with an emphasis on one which may spread internationally or may present a serious and direct danger.<sup>26</sup>

The regulations confirm that in keeping with state sovereignty, states reserve the right to formulate legislation or rules to address public health concerns within their territories.<sup>27</sup> However, in formulating and implementing such rules or legislation, states shall have regard to the need to protect

23 Hafner-Burton, Helfer & Fariss (n 22) 674.

24 As above.

25 As above.

26 Article 1 of WHO *International Health Regulations* 3 ed (2005) (IHR).

27 Article 3(4) of the IHR.

the ‘dignity, human rights, and fundamental freedoms of persons’.<sup>28</sup> Thus, regulations encourage states to strike a balance between the need to impose restrictions necessary to protect public health and the imperative of to protect fundamental freedoms. Regarding restrictions that seek to curtail free movement for public health reasons, while such restrictions may be necessary during a public health emergency, they must be structured so that the right of citizens and noncitizens to freedom of movement is not completely abrogated. Restrictions should only be set to the extent that they are absolutely necessary to protect public health. The Human Rights Committee of the United Nations, in its General Comments 27, affirmed this when it stated that the limitations contained in article 12(3) of the International Covenant should only be imposed when necessary. Such limitations must not be inconsistent with the overarching need to protect peoples’ right to freedom of movement and other rights enshrined in the International Covenant.<sup>29</sup>

The Committee set out four criteria which the restrictions listed in article 12(3) must meet in order to be acceptable. First, the restrictions must be specifically contained in a validly enacted law. Meaning the law must be as clear and precise as possible and must avoid vague expressions which public officials may latch onto to arbitrarily exercise power. Second, the restrictions must be necessary for achieving its targeted purpose in a democratic society. Third, the restriction must be proportionate to the interest that is sought to be protected. The scope of the restriction must not outweigh the purpose for which it was created. Fourth, the restriction must not defeat the essence of the right to freedom of movement or indeed any other right enshrined in the International Covenant.<sup>30</sup> The foregoing criteria for the imposition of limitations on the right to freedom of movement are explicitly outlined in the famous Siracusa Principles the American Association for the International Commission of Jurists at Siracusa, formulated in Italy in 1984.<sup>31</sup> The Siracusa Principles were created to elucidate the nature of the limitations and derogations set out in the ICCPR.<sup>32</sup>

28 Article 3(1) of the IHR.

29 Para 2 of HRC, General Comment 27.

30 Paragraphs 11-18 of HRC, General Comment 27. See also, paras 28-29 of HRC, General Comment 14.

31 American Association for the International Commission of Jurists ‘Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights’ (1985) <https://www.icj.org/wp-content/uploads/1984/07/Siracusa-principles-ICCPR-legal-submission-1985-eng.pdf> (accessed 26 September 2020).

32 As above.

Having delineated the right to freedom of movement's nature, scope, and content in the last few paragraphs, the chapter will now examine the status of this right under Nigerian Law, and the extent to which the Nigerian Government has complied with its obligation to protect this right in the wake of the recent coronavirus pandemic.

### 3.4 Right to freedom of movement under Nigerian Law

The right to freedom of movement is enshrined in section 41(1) of the 1999 Constitution of Nigeria. This section of the Constitution provides that

every citizen of Nigeria is entitled to move freely throughout Nigeria and to reside in any part thereof, and no citizen of Nigeria shall be expelled from Nigeria or refused entry thereto or exit therefrom.<sup>33</sup>

Section 41(2) of the Constitution imposes several limitations to the right to freedom of movement enshrined in section 41(1) as follows:

Nothing in subsection (1) of this section shall invalidate any law that is reasonably justifiable in a democratic society

- (a) imposing restrictions on the residence or movement of any person who has committed or is reasonably suspected to have committed a criminal offence in order to prevent him from leaving Nigeria; or
- (b) providing for the removal of any person from Nigeria to any other country to:
  - (i) be tried outside Nigeria for any criminal offence, or
  - (ii) undergo imprisonment outside Nigeria in execution of the sentence of a court of law in respect of a criminal offence of which he has been found guilty.<sup>34</sup>

Further limitations to the right are set out in section 45(1) of the Constitution which states that:

Nothing in section ... 41 of this constitution shall invalidate any law that is reasonably justifiable in a democratic society

- (a) in the interest of defence, public safety, public order, public morality or public health; or

33 Section 41(1) of the Constitution of the Federal Republic of Nigeria, 1999.

34 Section 41(2) of the Constitution of the Federal Republic of Nigeria.

(b) for the purpose of protecting the rights and freedom of other persons.<sup>35</sup>

The international instruments discussed above, and their provisions on the freedom of movement, are also recognised in Nigeria. For instance, although the ICCPR has not been domesticated in Nigeria per section 12 of the Constitution,<sup>36</sup> Nigeria has acceded to it,<sup>37</sup> and its provisions have persuasive influence in Nigerian courts.<sup>38</sup> Conversely, the African Charter on Human and Peoples' Rights has been domesticated in Nigeria through the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act (African Charter Act) and is considered part of Nigerian Law.<sup>39</sup> However, compared to the ICCPR, a major problem with the African Charter is that whereas the ICCPR allows the state to suspend the enjoyment of the freedom (derogation) during a public emergency, the African Charter only contemplates restrictions in relation to movement in and out of the country during an emergency.<sup>40</sup> This raises questions as to whether, under the African Charter, restrictions can be imposed on intra-country movement during a public emergency. The African Charter provides no clear answer to this and similar questions. The danger with the uncertainty surrounding this is that in African countries where there are no local laws addressing this question, dictatorial governments may seize the opportunity to arbitrarily legislate restrictions that severely and disproportionately curtail citizens' rights to freedom of intra-country movement.

Happily, the Nigerian Constitution leaves no room for uncertainty or ambiguity. Unlike the African Charter which only provides for restrictions in relation to movement into and out of a country during a public emergency, and leaves out intra-country movements, the restrictions imposed under the Nigerian Constitution apply to intra-country movements in addition to movements into and out of the country. However, as noted in section 45(1)(a)-(b) of the Constitution above, it is clear that while restrictions

35 Section 45(1) of the Constitution of the Federal Republic of Nigeria.

36 UN Human Rights Committee 'Implementation of International Covenant on Civil and Political Rights (ICCPR) in Nigeria' 126th Session, 1-26 July 2019 In.run/2PmQr (accessed 3 October 2020).

37 Nigeria acceded to the International Covenant on 29 July 1993. See United Nations Treaty Collection: Chapter IV Human Rights: International Covenant on Civil and Political Rights (status as at 2 October 2020) [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-4&chapter=4&clang=\\_en](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&clang=_en) (accessed 3 October 2020).

38 UN Human Rights Committee (n 36).

39 See the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act CAP A9, Laws of the Federation of Nigeria (LFN) 2004.

40 Article 12(2) of the African Charter.

may be imposed on all forms of movement, this can only be done in the 'interest of defense, public safety, public order, public morality or public health or for the purpose of protecting the rights and freedom of other persons'. The Nigerian Constitution thus makes clear that limitations/restrictions to the right of freedom of movement (in all its forms) will only be permitted under the circumstances mentioned in section 45(1)(a)-(b) of the Constitution. Therefore, it can be argued that under Nigerian law, freedom of movement is guaranteed as set out in the Constitution itself, as well as the international instruments which Nigeria has recognised, acceded to, or domesticated.

Having ascertained that the right to freedom of movement is guaranteed under Nigerian law, subject to constitutionally sanctioned restrictions, the chapter looks more closely at one of the grounds on which restrictions may be imposed on movement per the Nigerian Constitution. In the next sub-section and subsequent sections, the discussion examines the scope and nature of this limitation, as well as whether and how the Nigerian government has applied this limitation during the COVID-19 pandemic. Particularly, the discussion focuses on whether and how, in the application of the limitation, the Nigerian Government has complied with international law and best practice?

### **3.5 Public health limitation to the right of freedom of movement in Nigeria**

Apart from the public health limitation to the right of freedom of movement contained in the African Charter, the ICCPR, and the Nigerian Constitution discussed above, there are other local laws in Nigeria that provide for restrictions on citizens' right to freedom of movement during periods of a public health emergency. An example is the Quarantine Act of 1926 which was originally enacted during the colonial era to regulate 'the imposition of quarantine' and making 'other provisions for preventing the introduction into and spread in Nigeria, and the transmission from Nigeria, of dangerous infectious diseases'.<sup>41</sup> Notwithstanding that this Act is a colonial relic, it is outdated and quite limited in scope.<sup>42</sup> For instance, the Act gives the President of Nigeria the power to make regulations

41 'An Act to provide to regulate the imposition of quarantine and to make other provisions for preventing the introduction into and spread in Nigeria, and the transmission from Nigeria, of dangerous infectious diseases' (Quarantine Act, 1926). The Act was subsequently amended in 1929 and 1954.

42 For instance, the subsidiary legislation made pursuant to the Act is only concerned with the prevention and control of infectious diseases in shipping vessels arriving in and departing from Nigeria. See Quarantine (Ships) Regulations (1968) made pursuant to the powers of the President under sec 4 of the Quarantine Act, 1926.

to curtail the spread of infectious diseases in Nigeria<sup>43</sup> but contains no comprehensive provisions on important issues like what constitutes a public health emergency, how and under what circumstances a public health emergency can be declared, and how medical examination of infected persons can be carried out, as well as the nature of the treatment to be given to such persons. The Act is also silent on what exactly constitutes an offence under the Act.

More importantly, the Act concentrates the power to impose restrictions on movement throughout the country in the President to the exclusion of the State Governors who are, by law, the legitimate administrators of the various states in Nigeria.<sup>44</sup> This arrangement is grossly inconsistent with Nigeria's status as a federation in which power is shared among the federal and state governments. It also negates a cardinal principle of federalism that emphasises the need for the states of a federation to exercise significant powers of self-government.<sup>45</sup> With the federal government exercising such sweeping powers through the President, arbitrariness may indeed be inevitable.

Even if we accept how the Quarantine Act allocates power, the sweeping powers it gives the President renders the exercise of such powers susceptible to arbitrariness and dictatorship. Nothing is said in the Act about the nature, length, and scope of restrictions the President may impose on the freedom of movement during public health emergencies. Such matters are left to the President to determine at his discretion. Discretionary exercise of power is often the mother of arbitrariness.

Amid the COVID-19 pandemic, the National Assembly of Nigeria, realising the 1926 Quarantine Act's obsolescence, attempted to pass a new law to repeal the Act and provide for contemporary public health exigencies. However, a bill to enact the new law, the Control of Infectious Diseases Bill, 2020,<sup>46</sup> has failed to see the light of day due to public outcry on the Bill's provisions.<sup>47</sup> A major problem with the Bill is its inordinate

43 Section 4 of the Quarantine Act.

44 As above.

45 A Majeed 'Distribution of powers and responsibilities' in A Majeed et al eds *Distribution of powers and responsibilities in federal countries* (2006) 4. See also Nwabueze (n 11) 59.

46 'A Bill for an Act to Repeal the Quarantine Act and Enact the Control of Infectious Diseases Act, Make Provisions Relating to Quarantine and Make Regulations for Preventing the Introduction into and Spread in Nigeria of Dangerous Infectious Diseases, and For other Related Matters'.

47 J Kwen 'Why criticism swells around Infectious Diseases Control Bill' *Business Day* 10 May 2020 <https://businessday.ng/politics/article/why-criticism-swells-around-infectious-diseases-control-bill> (accessed 3 October 2020). See also L Adejoro

concentration of administrative powers in the office of the President and the Director-General of the Nigerian Centre for Disease Control (NCDC), a Presidential appointee. The Bill gives little or no role to State Governors in the administration of public health emergencies within their territories, a condition that is at variance with Nigeria's status as a federal democracy.<sup>48</sup> The Bill particularly confers on the Director-General, sweeping administrative powers, including the power to arbitrarily impose restrictions to the movement of citizens. Indeed, a significant proportion of the powers the Bill confers on the Director-General can be exercised discretionally and arbitrarily, thus creating room for possible abuse of power.

Owing to the public outcry on the centralist, dictatorial, and arbitrary character of the Infectious Diseases Bill, further legislative work on the Bill has been suspended. As a result, the regulations currently controlling how the government handles the COVID-19 pandemic, that is the COVID-19 Regulations, 2020, were made under the powers section 4 of the Quarantine Act 1926 conferred on the President.<sup>49</sup> Under the regulations, movements across the country were restricted for an initial period of 14 days.<sup>50</sup> Thereafter, further restrictions to movement were to be periodically emplaced for periods not lasting more than 14 days at a time. Eventually, the restrictions were gradually relaxed until they were ultimately halted after five months.

#### **4 Consistency of the Nigerian COVID-19 regime with international law**

The pertinent question is whether the COVID-19 Regulations the Nigerian Government issued to tackle the pandemic meet the standards set out in relevant international instruments regarding limitations to freedom of movement as discussed above. In particular, is the nature and scope of the restrictions to citizens' right to freedom of movement under the Quarantine Act and the COVID-19 Regulations consistent with the standards established by articles 12(3) and 12(2) of the ICCPR and

'Infectious disease bill gives too much power to the NCDC DG' *Healthwise* 14 June 2020 <https://healthwise.punchng.com/infectious-disease-bill-gives-too-much-power-to-ncdc-dg-ihckweazu-2> (accessed 3 October 2020).

48 T Igomu 'Infectious Diseases Bill undemocratic, conflicts with the constitution – Govs Forum' *Healthwise* 12 June 2020 <https://healthwise.punchng.com/infectious-disease-bill-undemocratic-conflicts-with-the-constitution-govs-forum> (accessed 3 October 2020).

49 COVID-19 Regulations, 2020 [https://nipc.gov.ng/wp-content/uploads/2020/04/COVID-19\\_REGULATIONS\\_2020\\_20200330214102.pdf](https://nipc.gov.ng/wp-content/uploads/2020/04/COVID-19_REGULATIONS_2020_20200330214102.pdf) (accessed 4 October 2020).

50 Section 1(1) of the COVID-19 Regulations.

the African Charter, respectively? Do the restrictions conform with the principles established in the Siracusa Principles regarding the limitation and derogation provisions in the ICCPR? In essence, are these restrictions provided by law? Are they necessary and proportionate in a democratic society to protect national security, public order, public health, or morals, or the rights and freedoms of others? Are they consistent with the other rights recognised in international law?

First, as already stated above, the government-imposed restrictions to the movement of citizens during the pandemic were set out in the COVID-19 Regulations, made according to the powers section 4 of the Quarantine Act conferred on the President. To this extent, it can be said that the restrictions were provided for by law.

As to whether the restrictions were necessary and proportionate, there is no doubt that the COVID-19 pandemic presented the entire world, including Nigeria, with no choice but to impose significant restrictions to the movement of citizens to curb the virus's spread and prevent it from destroying the lives of innocent citizens. By the last week of March 2020, thousands of deaths had been recorded in different parts of the world because of the virus, and Nigeria had already recorded the earliest cases.<sup>51</sup> Thus, it was necessary to impose restrictions on movement into, within, and out of Nigeria to curtail the spread of the virus, and thus save the lives of millions of citizens.

However, it must be pointed out that while it was clear that Nigeria needed to impose restrictions on movement out of and into Nigeria, it is not certain that the uniform imposition of restrictions across all the states of the federation was necessary. This is because the rate and magnitude of infections was inconsistent throughout the country.<sup>52</sup> Indeed, very few infections were recorded in some states,<sup>53</sup> and even then, those infections were concentrated in very few communities in those states. For such states, it was perhaps unnecessary to impose state-wide restrictions on movement. The decision on whether restrictions to movement should be imposed on those states should have been left to the State Governors, acting in concert with their Houses of Assembly. Instead, the President, an officer of the federal government mainly took decisions on restrictions

51 Nigeria Centre for Disease Control 'First case of corona virus disease confirmed in Nigeria' (28 February 2020) <https://www.ncdc.gov.ng/news/227/first-case-of-corona-virus-disease-confirmed-in-nigeria> (accessed 1 October 2020).

52 See the infection rates on the website of the Nigeria Centre for Disease Control <https://ncdc.gov.ng/> (accessed 11 October 2020).

53 As above.

in all cases. These decisions were then handed down to the Governors who simply acquiesced. This state of affairs reveals the dysfunctional state of Nigeria's federalism. Each State was in the best position to decide whether restrictions should be imposed on movement within its territory. Perhaps if the decision on restrictions had been decentralised, as it should be in a federal system, there would have been less damage to the livelihood of thousands of citizens across Nigeria.<sup>54</sup>

As noted earlier, human rights are interdependent, interrelated, and indivisible. When restrictions are imposed on the freedom of movement, citizens, especially those who are self-employed, may find it difficult, if not impossible, to work and could therefore go hungry, unless the government takes measures to specifically protect citizens from hunger during such periods of restrictions. Failure to provide such support to citizens renders the restrictions disproportionate, inhumane, and inconsistent with the international human rights system. In essence, the absence of support in such instances is tantamount to a direct assault on the generally acknowledged reality of the interdependence and indivisibility of human rights.

Although the COVID-19 Regulations the Nigerian Government issued expressly stated that the government would support low-income earners and operators of the informal sector of the economy to cushion the effects of the restrictions imposed on movement throughout the country,<sup>55</sup> the implementation of this initiative has been problematic and ineffective.<sup>56</sup>

54 The restrictions imposed on movements across the country as a result of the pandemic led to serious dislocations in the nation's economy and deleteriously impacted the livelihood of citizens. For more on this see, for instance, Human Rights Watch 'Nigeria: Protect most vulnerable in COVID-19 Response' (14 April 2020) <https://www.hrw.org/news/2020/04/14/nigeria-protect-most-vulnerable-covid-19-response> (accessed 26 November 2020). See also K Andam et al 'IFPRI: Nigeria – Estimating the economic costs of COVID-19 in Nigeria' [ebrary.ifpri.org](https://ebrary.ifpri.org) (accessed 26 November 2020); A Okunola 'How COVID-19 is hitting employment in Nigeria – And pushing people into poverty' *Global Citizen* 16 June 2020 <https://www.globalcitizen.org/en/content/how-covid-19-hitting-employment-nigeria-poverty/> (accessed 26 November 2020).

55 Sections 5(1)-(6) of the COVID-19 Regulations.

56 IO Eranga 'COVID-19 pandemic in Nigeria: Palliative measures and the politics of vulnerability' (2020) 9 *International Journal of Maternal and Child Health and Aids* 220 at 220-222. See also D Okon '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 4 October 2020); O Agbedo 'FG's COVID-19 palliatives: Why Nigerians are not feeling the impact' *The Guardian* 8 August 2020 <https://guardian.ng/saturday-magazine/fgs-covid-19-palliatives-why-nigerians-are-not-feeling-the-impact> (accessed 4 October 2020); Human Rights Watch 'Nigeria: Protect most vulnerable in COVID-19 response' (14 April 2020) <https://www.hrw.org/>

The Government's intervention in the form of monetary support and provision of food items to the poor and vulnerable, has been abysmally unsuccessful.<sup>57</sup> Politicians and party thugs hijacked the money and food items meant for distribution to citizens and ensured that the items were only distributed to selected party members and their affiliates.<sup>58</sup> The corruption and lack of effective management in distributing these palliatives cast the restrictions imposed on movement of citizens in very bad light, since most citizens were deprived of government support and were also unable to provide for themselves as a result of the restrictions. The restrictions to the right of freedom of movement cannot be proportionate, neither can it be consistent with the right of citizens to be free from hunger, unless there is a simultaneous effort on the government's part to follow up the restrictions with the emplementation of effective mechanisms for the distribution of resources in cash and kind to keep citizens from going hungry and dying.

The Nigerian government's ineffective response to the economic dislocations the restrictions imposed on the movement of citizens during the pandemic caused exposes the gross inadequacies inherent in Nigeria's social security system.<sup>59</sup> The system is corruption-ridden, bereft of comprehensive data on the poor and vulnerable and prone to manipulation and mismanagement.<sup>60</sup> For instance, although the Nigerian Government announced the commencement of a conditional cash transfer scheme to the poor and vulnerable in April 2020, to cushion the harsh effects of the COVID-19 restrictions, the Government failed to delineate criteria for determining who is 'poor and vulnerable'.<sup>61</sup> The absence of a set of transparent criteria for identifying those eligible for the funds renders the scheme amenable to manipulation and corruption. Indeed, there have been complaints that many individuals and households whose livelihood has been affected by the restrictions imposed on movement have been left out of this arrangement.<sup>62</sup> Nigeria must set up a standard, corruption-free

news/2020/04/14/nigeria-protect-most-vulnerable-covid-19-response/ (accessed 5 October 2020).

57 S Dixit et al 'How well has Nigeria responded to COVID-19?' (2 July 2020) <https://www.brookings.edu/blog/future-development/2020/07/02/how-well-has-nigeria-responded-to-covid-19/> (accessed 1 October 2020).

58 Eranga (n 56).

59 HRW (n 56).

60 C Nwagbara 'FG begins N 20 000 relief fund disbursement per household in Abuja' *Nairametrics* 1 April 2020 <https://nairametrics.com/2020/04/01/fg-begins-n20000-relief-fund-disbursement-per-household-in-abuja/> (accessed 5 October 2020).

61 As above. See also L Njoku et al 'Why controversy over FG's covid-19 palliatives persist' *Guardian* 26 April 2020 <https://guardian.ng/news/why-controversy-over-fgs-covid-19-palliatives-persists/> (accessed 5 October 2020).

62 As above.

social security system equipped with adequate data on the economic and social status of different categories of citizens. This will help enhance the equitable distribution of financial resources and benefits to those who need it most during a public health crisis like the coronavirus pandemic. No restrictions to the right of freedom of movement can be proportionate, justifiable or sustainable without a simultaneous social security response that genuinely prioritises the poor and vulnerable. Restrictions to the right of freedom of movement under article 12(3) of the ICCPR and must not negate citizens' right to be free from hunger.

## **5 Policy and legal recommendations**

Section 4 identified many challenges associated with Nigeria's response to the COVID-19 pandemic within the context of citizens' right to freedom of movement. These challenges include the apparent obsolescence of the extant legislation controlling how the Government handles public health crises in Nigeria – the Quarantine Act, and the COVID-19 Regulations. The section decried the laws' concentration of powers, especially the power to impose restrictions on movement, in the President of Nigeria and the Director-General of the NCDC, a Presidential appointee. Under both laws, the States have almost no say in the matter. The section argued that, in addition this arrangement being inconsistent with Nigeria's status as a federal state, it may also serve as a springboard for arbitrariness. Thus, the President or his appointee may, without any consultation with a State Governor, impose restrictions on movement within a state even when the circumstances do not necessarily warrant such a measure. For instance, while significant incidents of COVID-19 infections have been mainly reported in Abuja, Lagos, and Ogun States, the President, acting pursuant to his powers under the Quarantine Act and the COVID-19 Regulations, imposed sweeping restrictions on movement throughout the country, including local communities with no significant report of COVID-19 infections. This has had a very adverse impact on these states and local communities' economies, since their residents could not go about their normal businesses and many families have succumbed to hunger and starvation.

There is a need for more comprehensive legislation on a public health crisis that aligns with contemporary realities. The colonial authorities enacted the Quarantine Act before Nigeria's independence in 1960. Under colonial rule, Nigeria was essentially a unitary state that was centrally administered. Therefore, it is understandable that the Quarantine Act assigned all powers under the Act to the President and his appointees. However, since 1960, Nigeria has been administered as a federal polity in which power is shared between federal and state governments with appropriate checks and balances to prevent arbitrary exercise of power.

Consequently, it is imperative to enact new legislation that reflects this reality. Under the new legislation, the President's ability to impose restrictions should be limited to movements within the Federal Capital Territory, Abuja, and movement in and out of Nigeria. Restrictions on movements within the federation's various states should be the exclusive preserve of each State Governor, acting together with the state's House of Assembly. This will ensure that the right of citizens to freedom of movement is not arbitrarily and unnecessarily abrogated in ways that adversely affect other rights, such as the right to work and the right to be free from hunger.

A second challenge identified in section 4 is the Nigerian Government's policy response to the COVID-19 pandemic's harsh impact on the livelihood of poor and vulnerable Nigerians. Section 4 highlighted that corrupt politicians and their cronies hijacked the distribution of foodstuff and other relief items, and the cash transfer arrangements originally made for the poor and vulnerable. The section advanced that the absence of adequate data on poor and vulnerable Nigerians further exacerbated the challenges associated with distributing relief materials. While the Government claims to have the names and contact details of 3.6 million poor Nigerian households in the National Social Register,<sup>63</sup> credible reports on poverty in Nigeria establish that more than 80 million Nigerians live on less than a dollar a day.<sup>64</sup> The lack of adequate data on the poor and vulnerable, and the maladministration of relief packages meant for the poor during the COVID-19 crisis, exemplify a deeply dysfunctional social security system that needs urgent revamping. As previously stated, restrictions or limitations to citizens' right to freedom of movement during a public health crisis will not be proportionate unless concrete and feasible arrangements to provide assistance to the poor and vulnerable through an efficient cash transfer and food supply system simultaneously supports the measures. International agreements to which Nigeria is a signatory require that limitation measures concerning freedom of movement during a public health crisis must be proportionate.

Thus, under the new legislation recommended above, it should be stipulated that in addition to other measures which can ameliorate poor and vulnerable people's suffering during a public health emergency, the federal, state, and local governments should collaborate to create a

63 D Royal 'Nigeria: Palliatives social register expanded from 2.6 to 3.6 million households in two weeks' *All Africa* 13 April 2020 <https://allafrica.com/stories/202004140664.html> (accessed 4 October 2020).

64 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 11 October 2020).

system that will ensure adequate supply of food and money to the poor and vulnerable whose livelihood is likely to be affected by the emergency. Rather than the current idea of maintaining a national register on the poor and vulnerable, such registers should be maintained by the local governments. Also, local governments should administer any cash transfer system or supply of food and other relief items to the poor since they are closer to the people. The federal and state governments should provide the required funds and assist with the supply of food and relief items, but the local governments should oversee the actual distribution of these items to the rightful beneficiaries within their territories. The limitations to the right of citizens to freedom of movement during a public health emergency will only be proportionate and justified when this sort of arrangement is put in place and credibly pursued.

## **6 Conclusion**

In the last few pages, this chapter focused on citizens' right to freedom of movement during a public health crisis such as the COVID-19 pandemic. Specifically, we have considered this topic in the Nigerian context. The paper began with an analysis of the nature of human rights which the paper defined as those existential attributes or claims that are inherent in and necessary for a person's survival. Without these rights, man would not be able to realise his full potential. The paper particularly examined and discussed the right to freedom of movement as enshrined and elucidated in various international human rights instruments such as the ICCPR and the African Charter, and the interpretive commentaries of the United Nations Human Rights Committee. The right to freedom of movement is fundamental and guaranteed by these international instruments, subject to certain limitations during periods of public emergency, including a public health crisis. During a public health crisis, states may impose limitations or restrictions on citizens' right to freedom of movement provided such limitations are necessary, proportionate, and consistent with the realisation of other human rights.

In keeping with international standards and best practice, section 41 of the Nigeria's 1999 Constitution guarantees the right to freedom of movement, subject to the President's power to make appropriate laws to govern periods of public emergency – including public health emergency. Apart from the Constitution, the only other legislation that specifically outlines the President's power to declare a public health emergency and impose restrictions on movement during such a period is the Quarantine Act. Per his powers under the Act, the President issued the COVID-19 Regulations to specifically regulate the government's action during the pandemic. However, as discussed in this chapter, the problem with both laws, the Quarantine

Act and the COVID-19 Regulations is that both assign inordinate powers to the President and his appointees to impose and administer restrictions on freedom of movement, to the exclusion of State Governors and other regional stakeholders. Notwithstanding that this is completely inconsistent with the Nigerian State's federal character, it may also enable the President to arbitrarily impose restrictions on freedom of movement within the states of the federation without consulting the legitimate governments in those states. This may result in the unnecessary imposition of restrictions in states even when the circumstances do not necessarily support measures.

A second challenge identified in the study, concerning restrictions imposed on movement within Nigeria following the COVID-19 pandemic, is that although the COVID-19 Regulations state that government would provide public support in the form of cash transfers and food supplies to the poor and vulnerable during the pandemic, the implementation and administration of this public-support scheme has been abysmal and heavily corrupt. The absence of credible and verifiable data on the poor and vulnerable exacerbates the problem. We argued that while international law demands that restrictions on freedom of movement should be necessary and proportionate, there can be no proportionality unless concrete measures aimed at ameliorating the potentially harsh impact of the restrictions on the livelihood of citizens back these restrictions.

In light of the challenges highlighted above, we recommended that the existing legislation on the public health crisis in Nigeria, the Quarantine Act and the COVID-19 Regulations made pursuant to it, should be repealed and replaced with new legislation that reflects Nigeria's federal character, and shares administrative powers between the federal, state and local governments during public health emergencies. Specifically, the President's power to impose restrictions on the movement of persons should be limited to the federal capital territory, as well as movements into and out of Nigeria, while State Governors, acting together with their Houses of Assembly, should be in charge of restrictions within the states. This will greatly help to forestall arbitrariness in the imposition of restrictions, because restrictions on movement would only be enforced in communities where such measures are strictly necessary.

Secondly, the distribution of money, foodstuff, and other relief items to the poor and needy during periods of public health crisis should be jointly coordinated by the federal, state, and local governments instead of the federal government alone, as is currently the practice. While federal and state governments should assist with providing required funds and relief items, the local governments should supervise the actual distribution of these items because they are closer to the people and therefore, are in

a better position to identify those who are genuinely in need. This will greatly help to curb the inefficiencies and corruption associated with current distribution methods. Only when such an efficient distribution system is in place would the restrictions imposed on citizens' right to freedom of movement, during periods of a public health emergency, be seen to be proportionate and justified.

## References

### Books

- Eso, K *Further thoughts on law and jurisprudence* (2003) 138
- Harris, D *Cases and materials on international law* (2005) 537
- Locke, J *Two treatises of government: A critical edition with introduction and notes by Peter Laslett* (1960) II.25
- Majeed, A 'Distribution of powers and responsibilities' in A Majeed et al eds *Distribution of powers and responsibilities in federal countries* (2006)
- Nwabueze, B *Constitutional democracy in Africa* Vol 2 (2003) 3
- Paine, T *Rights of man* (1996) 1-226
- Shaw, MN *International law* (2003) 247
- Wallace, RMM *International law* (2005) 234-235

### Journals

- Boller, PF 'Thomas Paine and natural rights: A reconsideration' (1977) 52 *Social Science* 67 at 67-68
- Criddle, EJ & Fox-Decent, E 'Human rights, emergencies, and the rule of law' (2012) 34 *Human Rights Quarterly* 39 at 49
- Donnelly, J 'Human rights as natural rights' (1982) 4 *Human Rights Quarterly* 391 at 402
- Hafner-Burton, EM, Helfer, LR & Fariss, CJ 'Emergency and escape: Explaining derogations from human rights treaties' (2011) 65 *International Organization* 673 at 676
- Harland, C 'The status of the International Covenant on Civil and Political Rights (ICCPR) in the domestic law of states parties: An initial global survey through UN Human Rights Committee documents' (2000) 22 *Human Rights Quarterly* 187 at 188
- Hart, HLA 'Are there any natural rights?' (1955) 64 *The Philosophical Review* 175 at 175-176
- Juss, SS 'Free movement and the world order' (2004) 16 *International Journal of Refugee Law* 289 at 291-292
- Miller, FD Jr 'Aristotle and the origins of natural rights' (1996) 49 *The Review of Metaphysics* 873
- Minkler, L & Sweeney, S 'On the indivisibility and interdependence of basic rights in developing countries' (2011) 33 *Human Rights Quarterly* 351 at 353-354
- Swanson, SG 'The medieval foundations of John Locke's theory of natural rights: Rights of subsistence and the principle of extreme necessity' (1997) 18 *History of Political Thought* 399

Eranga, IO 'COVID-19 pandemic in Nigeria: Palliative measures and the politics of vulnerability' (2020) 9 *International Journal of Maternal and Child Health and Aids* 220 at 220-222

## Case law

*Saude v Abdullahi* (1989) 4 NWLR, Part 116, 387 ac 418-419

## Legislation

Constitution of the Federal Republic of Nigeria, 1999

COVID-19 Regulations, 2020 [https://nipc.gov.ng/wp-content/uploads/2020/04/COVID-19\\_REGULATIONS\\_2020\\_20200330214102.pdf](https://nipc.gov.ng/wp-content/uploads/2020/04/COVID-19_REGULATIONS_2020_20200330214102.pdf) Section 1(1) of the COVID-19 Regulations

Quarantine (Ships) Regulations (1968) made pursuant to the powers of the President under sec 4 of the Quarantine Act, 1926

'A Bill for an Act to Repeal the Quarantine Act and Enact the Control of Infectious Diseases Act, Make Provisions Relating to Quarantine and Make Regulations for Preventing the Introduction into and Spread in Nigeria of Dangerous Infectious Diseases, and For other Related Matters'

## Legal Texts

(Protocol 4) of the Council of Europe, European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols 11 and 14, 4 November 1950, ETS 5 (1950)

African Charter on Human and Peoples' Rights

American Association for the International Commission of Jurists 'Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights' (1985) <https://www.icj.org/wp-content/uploads/1984/07/Siracusa-principles-ICCPR-legal-submission-1985-eng.pdf>

Article 1 of WHO *International Health Regulations* 3 ed (2005) (IHR)

HRC, General Comment 27

Human Rights Committee (HRC), CCPR General Comment 29: Article 4: Derogations during a State of Emergency, 31 August 2001, CCPR/C/21/Rev.1/Add.11 (2001) para 9

Organization of African Unity (OAU), African Charter on Human and Peoples' Rights (Banjul Charter), 27 June 1981, CAB/LEG/67/3 rev 5, 21 ILM 58 (1982)

Preamble, para 6 of the African Charter on Human and Peoples' Rights

The UN Human Rights Committee (HRC), General Comment 36: Article 6 (Right to Life), 3 September 2019, CCPR/C/GC/35 (2019)

UN General Assembly, International Covenant on Civil and Political Rights, 16 December 1966, United Nations, Treaty Series, vol 999, p 171 (ICCPR)

UN General Assembly, International Covenant on Economic, Social and Cultural

Rights, 16 December 1966, United Nations, Treaty Series, vol 993, p 3 (1966) (ICESCR)

UN General Assembly, Vienna Declaration and Programme of Action, 12 July 1993, A/CONF.157/23 (1993) <https://www.ohchr.org/en/professionalinterest/pages/vienna.aspx>

UN Human Rights Committee (HRC), CCPR General Comment 14: Article 6 (Right to Life) Nuclear Weapons and the Right to Life, 9 November 1984 emphasised that the right to life set out under art 6 of the ICCPR 'should not be interpreted narrowly'

UN Human Rights Committee (HRC), CCPR General Comment 27: Article 12 (Freedom of Movement), 2 November 1999, CCPR/C/21/Rev.1/Add.9 (1999)

UN Human Rights Committee 'Implementation of International Covenant on Civil and Political Rights (ICCPR) in Nigeria' 126th Session, 1-26 July 2019

## News Articles

Adejoro 'Infectious disease bill gives too much power to the NCDC DG' *Healthwise* 14 June 2020 <https://healthwise.punchng.com/infectious-disease-bill-gives-too-much-power-to-ncdc-dg-ihekweazu-2> (accessed 3 October 2020)

Agbedo 'FG's COVID-19 palliatives: Why Nigerians are not feeling the impact' *The Guardian* 8 August 2020 <https://guardian.ng/saturday-magazine/fgs-covid-19-palliatives-why-nigerians-are-not-feeling-the-impact> (accessed 4 October 2020)

Andam, K et al 'IFPRI: Nigeria – Estimating the economic costs of COVID-19 in Nigeria' *ebrary.ifpri.org* (accessed 26 November 2020)

Dixit, S et al 'How well has Nigeria responded to COVID-19?' (2 July 2020) <https://www.brookings.edu/blog/future-development/2020/07/02/how-well-has-nigeria-responded-to-covid-19/> (accessed 1 October 2020)

Human Rights Watch 'Nigeria: Protect most vulnerable in COVID-19 Response' (14 April 2020) <https://www.hrw.org/news/2020/04/14/nigeria-protect-most-vulnerable-covid-19-response> (accessed 26 November 2020)

Human Rights Watch 'Nigeria: Protect most vulnerable in COVID-19 response' (14 April 2020) <https://www.hrw.org/news/2020/04/14/nigeria-protect-most-vulnerable-covid-19-response/> (accessed 26 November 2020)

Igomu, T 'Infectious Diseases Bill undemocratic, conflicts with the constitution – Govs Forum' *Healthwise* 12 June 2020 <https://healthwise.punchng.com/infectious-disease-bill-undemocratic-conflicts-with-the-constitution-govs-forum> (accessed 3 October 2020)

Kwen, J 'Why criticism swells around Infectious Diseases Control Bill' *Business Day* 10 May 2020 <https://businessday.ng/politics/article/why-criticism-swells-around-infectious-diseases-control-bill> (accessed 3 October 2020)

Nigeria Centre for Disease Control 'First case of corona virus disease confirmed in Nigeria' (28 February 2020) <https://www.ncdc.gov.ng/news/227/first-case-of-corona-virus-disease-confirmed-in-nigeria> (accessed 1 October 2020)

- Njoku, L et al 'Why controversy over FG's covid-19 palliatives persist' *Guardian* 26 April 2020 <https://guardian.ng/news/why-controversy-over-fgs-covid-19-palliatives-persists/> (accessed 5 October 2020)
- Nwagbara, C 'FG begins N 20 000 relief fund disbursement per household in Abuja' *Nairametrics* 1 April 2020 <https://nairametrics.com/2020/04/01/fg-begins-n20000-relief-fund-disbursement-per-household-in-abuja/> (accessed 5 October 2020)
- Okon, D 'Lamentation still trails Lagos, FG's palliative package as middlemen hijack programme' *Business Day* 19 April 2020 (accessed 4 October 2020)
- Okunola, A 'How COVID-19 is hitting employment in Nigeria – And pushing people into poverty' *Global Citizen* 16 June 2020 <https://www.globalcitizen.org/en/content/how-covid-19-hitting-employment-nigeria-poverty/> (accessed 26 November 2020)
- Royal, D 'Nigeria: Palliatives social register expanded from 2.6 to 3.6 million households in two weeks' *All Africa* 13 April 2020 <https://allafrica.com/stories/202004140664.html> (accessed 4 October 2020)
- World Bank 'Nigeria releases new report on poverty and inequality in country' (28 May 2020) <https://www.worldbank.org/en/programs/lsmis/brief/nigeria-releases-new-report-on-poverty-and-inequality-in-country> (accessed 11 October 2020)
- World Health Organization 'Timeline: WHO's COVID-19 response' (30 August 2020) <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/interactive-timeline> (accessed 1 September 2020)