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ASSESSING THE EFFECTIVENESS OF NIGERIA'S JUDICIARY IN PROTECTING HUMAN RIGHTS AND COMBATING CRIME

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Abstract

This study examines the role of the Nigerian judiciary in protecting human rights, with an emphasis on the effectiveness and challenges of the Nigerian judiciary system. Despite its constitutional provision, the Nigerian judiciary is faced with a lot of issues such as judicial corruption, political interference, and delays in the legal process. These ultimately undermine its role in protecting human rights. This research applies the theories of criminology, including natural law theory, legal positivism, labeling theory, and conflict theory, to understanding the judiciary's approach to human rights protection in criminal cases. The major findings in the study include but not limited to judicial challenges that explains the challenges the Nigerian judiciary faces among which are lobbying in the appointment of judicial officers. Equally, there is another important finding which highlights the contrasting theoretical perspectives of Natural Law Theory and Legal Positivism in the context of human rights protection. The Natural Law Theory posits the importance of upholding moral principles and respecting inherent human rights, this suggests that certain rights are absolute and global. Conversely, Legal Positivism emphasizes the role of legislation and state power in defining and protecting human rights. This highlights the authority of laws and institutions in shaping rights protection. These perspectives offer different ways through which to understand and approach human rights, with Natural Law Theory focusing on ethical and moral foundations while Legal Positivism focusing on legal frameworks and state authority. On the other hand, labeling theory and conflict theory reveal how the judiciary's decisions can perpetuate human rights violations and reinforce existing power dynamics. The study equally evaluates the effectiveness of judicial interventions in addressing human rights violations and identifies areas for improvement. The study found out some challenges in the Nigerian judiciary system including inadequate judicial remedies, corruption, and political influence which are believed to hinder human rights protection. From the discussion, the paper recommended, among other things, that Federal Government should strengthen judicial independence, improve access to justice and combat corruption by implementing anti-corruption measures within the Nigerian judiciary system.

Keywords: Judicial Protection, Human Rights, Natural Law Theory, Legal Positivism,

Introduction

The judiciary in Nigeria is the third arm of government which is responsible for interpretation of laws, arbitrating cases, advising the executive and legislature, and defending citizens' rights and freedoms. Chwkwuma, (2023). Nigerian judiciary has both legal and administrative structures, with its primary function being adjudication and encompassing jurisdiction over various legal domains. Kekere, et, al, (2024). Egemonu, (2022), sees the Nigeria Judiciary, as the most important arm of government. According to him, this is because the judiciary plays a leadership role in promoting access to justice and ensuring justice is served effectively. Lib, (2017), opined that the judiciary has over time, struggled to assert its rights and perform its duties to protect human rights, particularly during periods of military rule and fusion of executive and legislative powers. According to Vynokurov, (2021), human rights protection involves understanding the content and scope of possible actions covered by them, and distinguishing between “protection” and “enforcement” at both scientific and legislative levels.

Chandrashekhar, (2024), defines human rights protection as the safeguarding of human dignity and equality worldwide for all in a globalized world, facing challenges and opportunities. Human rights protection is a fundamental pillar of any democratic society, ensuring that individuals enjoy freedoms and protections against abuses by both state and non-state actors. In Nigeria, the judiciary plays a crucial role in upholding these rights through its interpretation and enforcement of constitutional provisions, statutory laws, and international treaties. Notably, Nigerian courts, especially the Supreme Court and Court of Appeal, have issued significant rulings that have reshaped the nation's human rights environment, Maduekwe, (2021). Regardless of their crucial role, the apex court, appellate courts, and other judicial bodies have faced challenges in maintaining the integrity of the judicial system. Some factors such as judicial corruption, political interference, and procedural delays have impeded their optimal performance, thereby undermining the judiciary's ability to protect citizens' rights (Lugard, 2017).

Statement of the Research

The judiciary plays a vital role in keeping the rule of law and safeguarding human rights. Nevertheless, there are concerns regarding the effectiveness of the judiciary in fulfilling this mandate, which necessitate probing and debate. According to Aliyu, et, al, (2020), lobbying, has been entrenched in the process of appointing Judicial Officers in Nigeria, and the powers of the Chief Justice of Nigeria threaten the independence of the Judiciary. Notably, there is constant face-off between the National Judicial Council (NJC) and State Governors in Nigeria over the appointment of substantive Chief Judges, leading to tensions within and outside the legal profession. Udemezue, & Hameed, (2021). Frequent consequences of this interference in the Nigerian judiciary have been attributed to biased rulings, inconsistent enforcement of human rights laws, and a failure to hold government officials answerable for human rights abuses.

Equally, studies have confirmed that bribery, favouritism, and judicial misconduct undermine public confidence in the judiciary. Zubairu, (2020), Udombana, (2020). It is quite disturbing to see how financial and political pressure on courts prevents victims of human rights abuses from getting justice. Delays in the judicial process have been highlighted as a significant obstacle to the timely enforcement of human rights protections (Melcarne et al., 2021). Such delays, often resulting from court overburden, staff shortages, and inefficient procedures (Oi et al., 2016), can lead to extended illegal detentions, denied fair trial rights, and prolonged violations of

fundamental freedoms, underscoring the principle that "justice delayed is justice denied." Another disturbing phenomenon by Shukla, (2023), is limited access to justice, which results from significant barriers faced by low-income individuals, minorities, and persons with disabilities when navigating the justice system. Furthermore, Nigerians in the rural areas often face significant challenges in accessing legal justice due to financial constraints and lack of awareness of their rights. The enormous prices associated with civil lawsuit can be exorbitant, thereby deterring individuals from pursuing or defending legal actions. This in turn can restrict access to justice for marginalized populations, particularly the poor (Woo et al., 2022). In view of these challenges, this study seeks to examine the Nigerian judiciary's role in protecting human rights, assess its effectiveness in upholding justice, and identify essential reforms to enhance its capacity and ensure equitable access to justice for all.

Research Questions

To this end, the following research questions are proposed to guide the study:

- i. How effective is the Nigerian judiciary in protecting human rights, particularly in cases involving criminal justice?
- ii. Which legal provisions govern the enforcement of human rights in Nigeria?
- iii. What are the challenges faced by the Nigerian judiciary in upholding human rights, and how can these challenges be addressed?
- iv. What is the relationship between the Nigerian judiciary's handling of criminal cases and the protection of human rights?
- v. How do criminological theories (e.g., labeling theory, conflict theory) explain the Nigerian judiciary's approach to human rights protection in criminal cases.

Research Objectives

The following are the objectives in which the research will be guided:

- i. Critically examine the Nigerian judiciary's role in protecting human rights in criminal cases.
- ii. Explore the application of criminological theories in understanding the judiciary's approach to human rights protection.
- iii. Evaluate the effectiveness of judicial interventions in decisively addressing human rights violations.
- iv. Identify the challenges and limitations faced by the judiciary in upholding human rights.
- v. Provide actionable recommendations to strengthen the judiciary's role in the protection of human rights.

Theoretical Framework

The theories of criminology offer valuable perception into the Nigerian judiciary's approach to human rights protection in criminal cases. Here is an explanation of how natural law theory, legal positivism theory, labeling theory and conflict theory can be applied:

Natural Law Theory

Studies suggest that natural law theory has been propounded by various thinkers including Thomas Aquinas, John Locke, and Germain Grisez, with significant contributions from others like John Finnis and Petrus Iohannis Olivi. Hochstrasser, (1993), Lee, (2019), Jensen, (2016). Ayobami, (2023), opined that the tripartite doctrines of natural law, human rights, and international law apply to the

Nigerian situation. Hussain, & Akhtar, (2023), submits that Natural rights are inherent, universal, and derived from a higher moral order, according to theories like moral intuition, human nature, and the Social Contract, noting that Judiciary's interpretation of laws must be guided by justice and fundamental ethical considerations. Applying it to this study we see that in certain instances, Nigerian courts have recognized natural law principles, especially when fundamental rights are at stake and courts have, for example, used constitutional provisions to safeguard individuals from government overreach and human rights violations.

Legal Positivism

Legal positivism, according to Weinstock, (2020), represents a group of legal philosophers using conceptual clarification methods to make normative claims about law, and is a fundamental theory of jurisprudence studied in law and related fields, focusing on normativity and values. Mindus, (2021). Legal positivism argues that laws are created by recognized authorities (e.g., governments and legislatures). Ratnapala, (2009), and should be applied as written, regardless of moral considerations. This theory proposes a strict interpretation of human rights laws by Nigerian judges, adhering to the constitution and existing legislation. The theory outlines the judiciary's role, emphasizing adherence to the law as it is written rather than relying on subjective moral judgments, showing that strong, clear laws, not judicial leeway, are key to effective human rights protection. Applying it to the Nigerian Judiciary, we see that Nigerian courts may enforce laws literally, neglecting potential human rights violations, reflecting a strict legal positivist stance. For instance, courts may uphold government policies that restrict freedom of expression if they are in accordance with statutory provisions, despite concerns about their effects on human rights.

Labeling Theory

Labeling theory, developed by Howard Becker (1963), suggests that individuals are labeled as deviant or criminal by society, leading to a self-fulfilling prophecy according to Aquinas, T. (1274). In the context of the Nigerian judiciary, labeling theory can explain how the court's decisions and labeling of individuals as "criminals" can perpetuate human rights violations. For instance, the Nigerian judiciary's tendency to impose harsh sentences, including capital punishment, can be seen as a form of labeling by Nigerian Prisons Service. (2020) Annual Report. This labeling can lead to further stigmatization and marginalization of individuals, particularly those from disadvantaged backgrounds. According to Amnesty International (2019) Nigeria, the authorities must respect human rights in the fight against crime. The judiciary's reliance on confessional statements, often obtained through coercive means, can also be seen as a form of labeling. This approach can result in wrongful convictions and perpetuate human rights abuses.

Conflict Theory

Conflict theory, rooted in the works of Karl Marx and Friedrich Engels, posits that social inequality and conflict arise from the competition for resources and power by Amnesty International (2019) Nigeria. In the context of the Nigerian judiciary, conflict theory can explain how the court's decisions reflect and reinforce existing power dynamics and social inequalities. For example, the Nigerian judiciary's handling of cases involving economic and financial crimes has been criticized for being lenient towards wealthy and powerful individuals by Premium Times. (2020). How Nigerian courts are used to shield corrupt officials. This can be seen as a reflection of the court's complicity in maintaining the existing power structure and protecting the interests of the elite. Furthermore,

the judiciary's approach to cases involving human rights violations by security agencies can also be seen through the lens of conflict theory Human Rights Watch. (2019). Nigeria: Security Forces Abuses in North. The court's reluctance to hold security agencies accountable for human rights abuses can be attributed to the power dynamics at play, with the judiciary often deferring to the interests of the state and its security apparatus.

The Nigerian Judiciary and Human Rights protection: A Theoretical Synthesis

The application of theories of criminology provides a framework for understanding the role of the Nigerian judiciary in protecting human rights.

Natural Law Theory posits that inherent, universal rights are derived from a higher moral order (Hochstrasser, 1993; Lee, 2019; Jensen, 2016). This theory has been applied in Nigerian courts, particularly in cases involving fundamental rights (Ayobami, 2023). The judiciary's interpretation of laws should be guided by justice and ethical considerations, ensuring that the rights of individuals are protected (Hussain & Akhtar, 2023). In contrast, Legal Positivism emphasizes the importance of strict interpretation of laws and adherence to constitutional provisions (Weinstock, 2020; Mindus, 2021). However, this approach can lead to the literal enforcement of laws, potentially neglecting human rights violations (Ratnapala, 2009). The effectiveness of human rights protection relies on the existence of strong, clear laws. Labeling Theory provides insight into how court decisions and labeling can perpetuate human rights violations (Becker, 1963; Aquinas, 1274). The Nigerian judiciary's reliance on confessional statements and harsh sentencing can result in wrongful convictions and stigmatization (Nigerian Prisons Service, 2020; Amnesty International, 2019). By combining these theoretical frameworks, the study aims to provide a comprehensive understanding of the Nigerian judiciary's role in protecting human rights and identify areas for improvement.

Methodology

Research Design: This study adopts a qualitative research design, applying a doctrinal research approach to examine the role of the Nigerian judiciary in protecting human rights. The research will examine existing literature, academic articles, books, and court judgments. This is in a bid to identify the challenges faced by the Nigerian judiciary and potential reforms to strengthen its capacity.

Data Collection: The study will bank on secondary data sources such as academic articles and books on human rights, judiciary, and criminology theories. It will also make use of court judgments and decisions related to human rights cases in Nigeria in addition to reports from human rights organizations and government agencies.

Data Analysis: The study will employ thematic analysis to identify patterns and themes in the data. The researcher will examine the data through the lens of criminology theories, including natural law theory, legal positivism, labeling theory, and conflict theory.

Conclusion

Criminology theories, such as natural law theory and positivism theory offer valuable insights into the Nigerian judiciary's approach to human rights protection in criminal cases. Natural law theory emphasizes the importance of upholding moral principles and respecting inherent human rights,

while positivism theory highlights the role of legislation and state power in shaping human rights protection. By considering these theoretical perspectives, we can gain a deeper understanding of the complex factors influencing human rights protection in Nigeria. Labeling theory and conflict theory, offer valuable insights into the Nigerian judiciary's approach to human rights protection in criminal cases. These theories highlight the ways in which the judiciary's decisions can perpetuate human rights violations, reinforce existing power dynamics, and reflect the interests of the powerful.

Recommendations

Based on the discussions above, it is recommended that Federal Government of Nigeria should:

- i. Strengthen judicial independence: Advocate for reforms to ensure the independence of the judiciary and protect judges from external interference.
- ii. Improve access to justice: Implement measures to increase access to justice, such as legal aid programs, alternative dispute resolution mechanisms, and court-annexed mediation.
- iii. Combat corruption: Implement anti-corruption measures, such as asset declaration, financial disclosure, and robust disciplinary mechanisms for corrupt judges and judicial staff.
- iv. Review and reform the Nigerian Constitution: Advocate for constitutional reforms to strengthen the judiciary's role in protecting human rights and ensuring justice.
- v. Enact legislation to protect human rights: Advocate for legislation that protects human rights, particularly in areas such as freedom of speech, assembly, and association.
- vi. Establish a robust judicial accountability mechanism: Establish an independent body to investigate complaints against judges and judicial staff, and ensure accountability for misconduct.
- vii. Integrate human rights and judicial ethics into legal education: Ensure that law students receive comprehensive training on human rights, judicial ethics, and the role of the judiciary in protecting human rights.
- viii. Provide ongoing training for judges and judicial staff: Offer regular training programs for judges and judicial staff on human rights, judicial ethics, and best practices in judicial decision-making.
- ix. Promote public awareness of human rights and the judiciary: Organize public awareness campaigns to educate citizens about their human rights and the role of the judiciary in protecting those rights.

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