

**THE ROLE OF LEGAL PRACTITIONERS IN THE PROTECTION AND PROMOTION OF HUMAN RIGHTS IN CONTEMPORARY NIGERIA\***

**Abstract**

*This paper titled 'the role of legal practitioners in the protection and promotion of human rights in contemporary Nigeria exposed the position of the Nigeria law on human rights and brought out the real duties of the legal practitioners in Nigeria in ensuring that the provisions of the 1999 constitution of the Federal Republic of Nigeria and other laws that deals with human rights in Nigeria are reinforced in practice for the good of the people of Nigeria. It observed that the legal practitioners comprising of members of the bar and members of the bench often seats on edge in the face of fragrant abuse and violation of human rights in Nigeria. The paper, therefore, called on legal practitioners both as individuals and in their collective associations in the bar and in the bench to work assiduously for the true regime of human rights protection and promotion in Nigeria.*

**Keywords:** Legal Practitioner, Human Rights, Protection and Promotion, Nigeria

**1. Introduction**

Human beings are created in the image and likeness of God.<sup>1</sup> They are endowed by their creator with certain inherent and inalienable rights.<sup>2</sup> These rights over the years are echoed and enshrined in various International, Regional, National and Ecclesial Legislative documents. The violations and abuses of these rights create tensions in the society and calls for positive actions. The records of human rights violations in Nigeria today are enormous. Most horrible among them are extrajudicial killings, use of excessive force by security forces, prolonged pre-trial detentions, human trafficking, religious intolerance leading to religiously motivated killings, judicial corruption, acts of terrorism etc.<sup>3</sup> In the face of violence and violation of human rights what should Nigerians do? Who should be at the forefront fighting for human rights? It is in the province of the legal practitioners to expound, defend, protect and promote human rights encoded in the laws within any legal regime. Thus, this paper concentrates on the examination of the role of legal practitioners in the protection and promotion of human rights legally guaranteed in Nigeria. It begins with the examination of the key terms used in the paper. This is followed with a vivid presentation of the provisions of the laws in Nigeria that deals with human right. Then after, it pinpoints the roles of the legal practitioners as individuals and in association as members of the bar and members of the bench in fostering the promotion and protection of human rights in Nigeria. The beginning of peaceful coexistence and end to violence is first and foremost achieved when human rights are respected and protected. The legal practitioners should be key actors in this regard.

**2. Clarification of Terms**

**Legal Practitioner**

A Legal Practitioner in Nigeria is a person entitled to practice as barrister (advocate) or as barrister and solicitor.<sup>4</sup> Barrister is a lawyer who is entitled to plead at the bar and who may argue cases in the courts.<sup>5</sup> An alternative word for barrister is advocate which is defined as a person, who assists, defends, pleads, or prosecutes for another.<sup>6</sup> Solicitor on the other hand is a legal adviser who consults with clients and prepares legal documents but is not generally heard in courts unless specially licensed.<sup>7</sup> In general, a barrister or advocate goes to court to do advocacy or conduct litigation. A solicitor does not go to court; he merely renders advisory services and prepares legal documents.<sup>8</sup> In Nigeria unlike many other jurisdictions such as the United Kingdom and Ireland, a legal practitioner is both a barrister and solicitor hence the appellation 'barristers and solicitors of the supreme court of Nigeria'<sup>9</sup> It is possible to be a lawyer without being a legal practitioner because a lawyer only has a degree in law whereas to be a legal practitioner one not only have a degree in law, he or she is also licensed to appear in court to practice law having been called to the bar and formally enrolled at the Supreme Court of Nigeria.<sup>10</sup> The licensing of lawyer to practice as legal practitioner is done by the Council of Legal Education and the Body of Benchers both of which are established by law. The Council prepares lawyers for call to the bar, while the Body of Benchers does the

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<sup>1</sup> Genesis, chapter 1 verse 28 in *The New Jerusalem Bible*, London, Darton, Longman & Todd, 1985

<sup>2</sup> See Preamble to the American Declaration of Independence, 1776

<sup>3</sup> "2008 Human Rights Report: Nigeria.", 2008 Country Reports on Human Rights Practices. United States, Department of State, Bureau of Democracy, Human Rights, and Labor. <http://www.State.gov/g/drls/rls/hrrpt/2008/af/119018.htm>. Assessed on 3/3/2025

<sup>4</sup> Cf. *Legal Practitioners Decree* 1975 (No. 15 of 1975) s. 23

<sup>5</sup> Bryan A. Garner, ed., *Black's Law Dictionary*, 7<sup>th</sup> edition, St. Paul Mn: West Group, 1999, p. 145

<sup>6</sup> *Ibid.*, p. 56

<sup>7</sup> *Ibid.*, p. 1399

<sup>8</sup> Dada, T.O., *General Principles of Law*, Lagos: Polarin, 1998, p. 20

<sup>9</sup> Okonkwo, C.O., ed. *Introduction to Nigerian Law*, London: Sweet & Maxwell, 1980

<sup>10</sup> Dada T.O., op. cit., p. 20, Obilade, A.O., *The Nigeria Legal System*, Ibadan: Spectrum Law Pub., 1979, p.270

actual call and admits lawyers into the legal profession.<sup>11</sup> Legal Practitioners constitutes members of the legal profession in Nigeria which is broken into two arms: the law officers (all legal practitioners who are licensed to practice law and who formed members of the bar) and the judicial officers (all legal practitioners who presides over the courts as judges and magistrates and constitute members of the bench).<sup>12</sup> In this essay, we shall use legal practitioner to mean ‘barristers and solicitors of the Supreme Court of Nigeria’ members of the bar; and judicial officers (judges and magistrates) members of the bench.

### Human Rights

Human rights are ‘basic rights that fundamentally and inherently belong to each individual’<sup>13</sup> as members of the human family. It is ‘the freedoms, immunities, and benefits that, according to modern values (esp. at the International level), all human beings should be able to claim as a matter of right in the society in which they live.’<sup>14</sup> It is those rights which are inherent in our nature and without which we cannot function as human beings.<sup>15</sup> Human rights are held to be of divine origin and our knowledge of them is self-evident. Hence in the preamble to the American Declaration of Independence in 1776 we read ‘We hold these truths to be self-evident, that all men are created equal, they are endowed by their creator with certain inalienable rights....’<sup>16</sup>

There are, however, controversies with respect to the divine, universal, inherent and inalienable nature of human rights. Legal Positivists like John Austin and Jeremy Bentham are of the view that human rights are creation of the state and as such not universal, inherent or inalienable.<sup>17</sup> It has been held and respectfully so that ‘A state or states are not capable of creating human rights by law or by convention. They can only confirm their existence and give them protection. The role of the state is no more than declaratory... Human rights have always existed with the human being. They existed independently of, and before, the state....’<sup>18</sup> An echo of this is found in the inaugural speech of late J.F Kennedy a onetime American President where he reaffirms ‘the belief that the rights of man come not from the generosity of the state, but from the hand of God.’<sup>19</sup> Human affirmation of human rights which is a divine gift to all men are expressed in legal terms in documents such as the English Bill of Rights of 1688; the United States Declaration of Independence of 1776, the US Bill of Rights added to the US Constitution in 1789; the French Declaration of the Rights of man and the citizen added to the French Constitution of 1791<sup>20</sup> and now the Universal Declaration of Human Rights in 1948 which has given birth to so many other International, Regional and National Bill of Rights. Human rights as found in international documents are of three main classes: Civil and Political Rights; Economic, Social, and Cultural Rights; and solidarity rights.<sup>21</sup> These classifications are, however, not of great significance as the whole of human rights are now agreed to be indivisible, interdependent and interrelated.<sup>22</sup>

From the foregoing, human rights for the purpose of this essay are taken to mean those inalienable, fundamental rights to which each person is inherently entitled simply because she or he is a human being and which has been recognized and declared in legislative documents within any given jurisdiction. Such are the rights the legal practitioners in Nigeria are called to promote and protect in the discharge of their functions in the administration of justice.

### 3. Nigerian Laws on Human Rights

#### Constitution of the Federal Republic of Nigeria 1999 (as amended)

The constitution is a legal document which contains the rules and regulations, the norms and ethics concerning the ways and manner which a country is to be administered. It regulates the activities of the government as well as safeguards and protects the interest of the governed.<sup>23</sup> The emergence of the Bill of Rights in Nigeria constitution passed through several stages.<sup>24</sup> Prior to 1<sup>st</sup> October 1960 when Nigeria became an independent country, the British law was applicable in Nigeria. This means that the Magna

<sup>11</sup> Dada, T.O., op. cit, pp. 21-22; Obilade, op. cit., p. 270.

<sup>12</sup> Obilade, op. cit., p. 270

<sup>13</sup> *West’s Encyclopedia of American Law*, 2<sup>nd</sup> edition, The Gale Group Inc., 2008.

<sup>14</sup> Bryan A. Garner, *Black’s Law Dictionary*, op. cit, p.745.

<sup>15</sup> Tokumbo I. & Olumide L., *Human Rights Made Easy: an introductory text on human rights*, Lagos: Florence & Lambard (Nig.) Ltd, 1999, p. 6

<sup>16</sup> This is a confirmation of the biblical account of the creation of man in the image and likeness of God and the fact that man is endowed by His creator with the gift of free will.

<sup>17</sup> Cf. Ogbu, O.N., *Human Rights Law and Practice in Nigeria: An Introduction*, Enugu: Cidjap Publishers, 1999, p. 1f

<sup>18</sup> Brownlie, I. ed. *Basic Documents on Human Rights*, Oxford: Clarendon Press, 1981, pp. 452-454 citing the dissenting opinion of Justice Tanaka in the *South West African Cases* (Second phase).

<sup>19</sup> [http://roberhutchinson.com/blogging/jfk-inaugural-address-reaffirmed-divine-origin-of-h... 3/4/2025](http://roberhutchinson.com/blogging/jfk-inaugural-address-reaffirmed-divine-origin-of-h...)

<sup>20</sup> *West’s Encyclopedia of American Law*, 2<sup>nd</sup> edition, The Gale Group, 2008, cited in FreeDictionary.com

<sup>21</sup> Civil rights are rights of a citizen within a state; they suggest a positive observance of etiquette in social behavior, a sincere consideration of other peoples’ rights. They include right to life, freedom of thought, conscience, religion expression, etc. Political rights are those that guarantees a person’s right to be involved in political issues such as right to vote and be voted for; right to equality before the law and to equal protection of the law. Economic rights refers to right to economic independence such as right to free choice of job, right to equal pay for equal job etc; Social rights refers to man’s right as a social being within the community of men such as right to the highest standards of physical and mental health, right to education etc; Cultural right refers to right to take part in ones’ cultural norms and belief which should be respected by other human beings such as right to enjoy scientific discoveries, right to take part in cultural life, right to freedom of scientific research and creative activity etc; Solidarity rights are those that appertains to the people as a people such as the right to self-determination.

<sup>22</sup> Cf. The Declaration of the World conference on Human Rights which took place in Vienna in 1993, cited in Ogbu op.cit. p. 21

<sup>23</sup> Dada T.O., op. cit. p. 446

<sup>24</sup> Ibid.

Carta of 1215 and the English Bill of Rights of 1689 were applicable in Nigeria. Proximate to the Nigerian Independence in 1951, the Macpherson constitution was enacted in Nigeria. This constitution introduced representative government with one center and three regions. In 1954 the Littleton constitution made the three regions autonomous. Both constitutions did not contain any bill of rights. However, following agitations from the minority tribes, the Willink commission was constituted. This gave rise to the discussion of the bill of rights in the 1957 and 1958 constitutional conferences. Hence, in the 1960 independence constitution and in the 1963 Republican constitution a bill of right was enshrined in chapter three titled 'Fundamental Rights'. The 1979 constitution introduced 'The Fundamental Objectives and Directive Principles of State policy' in chapter two and moved 'The Fundamental Rights' to chapter four. The same practice is followed in the 1999 constitution.

The 1999 Constitution is currently the supreme law in Nigeria. It provides for two classes of citizens' rights: the enforceable and the non-enforceable rights. The enforceable rights are found in chapter four of the constitution with the title: 'Fundamental Rights'. They are made up of civil and political right and they include: Right to life (s. 33); Right to dignity of human person (s.34); Right to personal liberty (s. 35); Right to fair hearing (s. 36); Right to privacy and family life (S. 37); Right to freedom of thought, conscience and religion (s.38); Right to freedom of expression and the press (s. 39); Right to peaceful assembly and association (s.40); Right to freedom of movement (s.41); Right to freedom from discrimination (s. 42); Right to acquire and own immovable property anywhere in Nigeria (s. 43); Freedom from compulsory acquisition of property (s. 44). The above twelve rights of man under the 1999 constitution are sacrosanct and cannot be derogated or denied except in accordance with the provisions of the constitution (s.45). The High courts are empowered to hear cases of alleged breach of fundamental rights (s. 46).

The non-enforceable rights are contained in chapter two of the same constitution under the title 'Fundamental Objectives and Directive Principles of State Policy'. According to the drafters of the 1979 constitution from where this chapter is imported into the 1999 constitution, the 'fundamental objectives mean the identification of the ultimate objectives of the Nation while Directive Principles of State Policy indicate the paths which leads to these objectives.'<sup>25</sup> The philosophical basis for this inclusion is that 'government in developing countries have tended to be pre-occupied with power and its material prerequisites with scant regard for political ideas as to how society can be organized and ruled to the best advantage of all.'<sup>26</sup> To make sure the government addresses their policies to issue that affects the good of all, this chapter made provision among other things for suitable and adequate shelter, suitable and adequate food, reasonable national minimum wage, old age care and pensions, and unemployment, sick benefits and welfare of the disable for all citizens, adequate means of livelihood, employment opportunities, equal pay for equal work, right to education, environmental rights, right to social security, etc<sup>27</sup> These laudable objectives notwithstanding, by virtue of s. 6(6) (c) of the 1999 constitution which is *in pari* material with s. 6(6) (c) of the 1979 constitution, these rights cannot be enforced by any court in Nigeria. They are still at the level of aspirations. As a result of the non-enforceability of this chapter of the constitution, they have appeared to be dead letters.<sup>28</sup>

#### **African Charter on Human and Peoples' Rights**

Another major legislative document containing human rights in force in Nigeria is the African Charter on Human and Peoples' rights.<sup>29</sup> The African charter on Human and Peoples' Rights which is a regional human rights legislative document came into force on 21<sup>st</sup> October 1986 and was ratified by Nigeria and other African nations. The Charter contains bill of rights which by virtue of its ratification became law in force in Nigeria. The charter not only provides for the civil and political rights, but it also guarantees economic, social, and cultural as well as solidarity rights.

The rights of the individual guaranteed by the charter include: Right to the enjoyment of rights without distinction of any kind (art.2); Right to equality before the law and equal protection of the law (art 3); Right to life (art.4); Right to dignity of the human person (art. 5); Right to liberty and security (art. 6); Right to have cause heard (art. 7); Right to freedom of conscience, the profession and free practice of religion (art. 8); Right to receive information and to express and disseminate opinion (art. 9); Right to freedom of association (art. 10); Right to freedom of assembly (art. 11); Right to asylum and freedom from arbitrary expulsion from a state (art. 12); Right of participation in government, and equal access to public service and public property (art. 13); Right to property (art. 14); Right to work under equitable and satisfactory conditions (art. 15); Right to physical and mental health (art. 16); Right to education and participation in cultural life of the community (art.17).

The States are imposed with the duty to promote rights and freedoms contained in the charter, to guarantee the independence of the courts and establish human rights organizations (arts. 25 & 26). It has been submitted that since the African Charter on Human and Peoples Rights has the force of law in Nigeria, the non-enforceability clause in section 6 (6) (c) of the 1999 Constitution of Nigeria which renders chapter two of the constitution non enforceable is of little or no significance since action dealing with economic and social rights can now be brought under the African Charter.<sup>30</sup> The human rights contained in the 1999 Constitution and the African Charter on Human and Peoples' Rights are the properties of every Nigerian which must be held sacred and jealously guarded.

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<sup>25</sup> Report of the Constitution Drafting Committee, vol. 1., p. v.

<sup>26</sup> *Ibid.*

<sup>27</sup> 1999 Constitution of the Federal Republic of Nigeria ss. 16-18, 20

<sup>28</sup> See, Nwabueze, B.O., "The Value of Human Rights and Their challenge for Africa" Paper Delivered at the Annual Conference of the Nigeria Bar Association at Abuja, 27<sup>th</sup> August, 1998, p. 16

<sup>29</sup> The provisions of the African Charter on Peoples and Human Rights is enforceable in Nigeria as a Municipal law by virtue of the African Charter on Human and Peoples 'Rights (Ratification and Enforcement) Act, Cap. A9, Laws of the Federation of Nigeria, 2004.

<sup>30</sup> See the case of *Fawehinmi v Abacha*, (1996), 9 NWLR 719 where the Court of Appeal held that the Federal Government is bound by the provisions of the African Charter on Peoples and Human Rights.

#### 4. The Role of the Legal Practitioners

The International community provides that ‘Lawyers, in protecting the rights of their clients and in promoting the cause of justice, shall seek to uphold human rights and fundamental freedoms recognized by national and international law....’<sup>31</sup> It is an obvious statement that since lawyers, more so the legal practitioners in Nigeria are learned in law and are ministers in the temple of justice, and that since the vindication of human rights always take place at the temple of justice where the legal practitioners are ministering in different capacities, a lot of duty is on them to protect and promote human rights individually and collectively.

**The Individual Legal Practitioners:** The role of the individual legal practitioner in handling cases of their clients is well articulated in the famous dictum of Lord Reid in the English case of *Rondel v Worsley*<sup>32</sup> where his lordship said that ‘every counsel has a duty to his client fearlessly to raise every issue and advance every argument and ask every question however distasteful, which he thinks will help his client’s case. But as an officer of the court concerned in the administration of justice, he has an overriding duty to the court, to the standard of his profession and to the public....’ The above dictum points to the fact that legal practitioners are not only to protect the interest of their clients, but also the interest of the court, the standard of the legal profession and the public at large. Part of the legal practitioners’ duty to the public involves his/her defense, promotion and protection of human rights guaranteed by the law whether they are those of his clients or any other person. In the celebrated case *Williams v Akintude*,<sup>33</sup> Justice Acholonu noted that ‘an attorney whose professional thought begin and end with his own private clients is a pitiable mockery of what a great lawyer is...’ Therefore, legal practitioners should be open and broad minded in defending and promoting the human rights of all whether they be his/her client or not. To be effective in the discharge of this responsibility, the legal practitioner ought to be a man/woman of learning. He should acquaint himself with full knowledge of human rights jurisprudence in both substantive and procedural laws. He should be able to intelligently argue and bring out the nexus between rights claimed not to be enforceable and those that are enforceable for the interest of the people. For the legal practitioner to discharge his duties effectively, he/she also must be a man or woman of courage. The legal profession is not meant for faint hearted men and women. The lawyer must be courageous enough to use the law to initiate non-violent revolution in the area of human rights and social justice. He must be fearless and exhibit maturity in the presentation of his case in court. This is achievable if he is very conversant with the human rights laws and practice. Above all, it is in the interest of the legal practitioners that they promote and protect human rights. This is because without a just regime of human rights protection there can be no stable society and without a stable society, there can be no legal practice.

**Association of Legal Practitioners (the Bar):** The United Nation basic principles on the role of lawyers provides that lawyers shall be entitled to form professional associations and cooperate with governments to ensure that everyone has effective and equal access to legal services, and that such association of lawyers should be free from external interference.<sup>34</sup> In Nigeria, the Nigeria Bar Association (NBA) is the official umbrella association for lawyers enrolled in the Nigeria Bar. The formation of the Nigerian Bar Association dates back to the colonial times, precisely in 1888 when the first lawyer from Nigeria was enrolled in Nigeria. In 1888, the first indigenous lawyer from Nigeria in the person of Christopher Alexander Sapara Williams who was called to the English Bar on November 17 1879 was enrolled in Nigeria. He became one of the early chairmen of the Nigeria Bar from 1900 - 1915. Other earlier chairmen of the Nigeria Bar include: Sir Akitoye Ajasa (1915-1937), Eric Olawole Moore (1937-1944), E. I Alex Taylor (1944-1950), Sir Adeyemi Alakija (1950-1952), Alhaji Jubril Martins (1952-1959). In 1960 at the NBA Annual General Meeting, the association formerly changed the leader’s title from ‘Chairmen’ to President’ with F.R.A. Williams becoming the first president.<sup>35</sup>

Today, the Nigeria Bar Association (NBA) formerly registered on 8<sup>th</sup> April 1983 as ‘Registered Trustee of Nigerian Bar Association’ under the Land (Perpetual Succession) Ordinance 1924, is the foremost professional association engaged in legal professionalism, promotion and protection of human rights, the rule of law and good governance. It has a population of over 105, 400 lawyers as members spread across its 129 branches in all the states of the Federation of Nigeria and the Capital territory, Abuja. The current president of the NBA is Afam Josiah Osigwe SAN.<sup>36</sup> The Nigerian Bar Association (NBA) is envisaged in line with the above basic principles of the United Nations to be independent and free from external forces. This often times is not the case in Nigeria as there are reports of executive interference with the organizations and activities of the NBA which renders the association to be a toothless bull dog in the face of human rights abuses.<sup>37</sup>

It cannot be overemphasized that an independent and corruption free bar would play a significant role in the promotion and protection of human rights. Among such roles would be sponsoring of bills in the National Assembly which will put an end to the abuse and violation of human rights in Nigeria. At the moment in our nation’s history, most of the fundamental human rights listed above like the right to life and the dignity of the human person are still grossly neglected. The NBA can engineer bills which will impose an obligation on the government to be held accountable for any life that is lost in Nigeria safe as provided for under the constitution.<sup>38</sup> It can as well initiate moves in the National Assembly for the implementation of the provisions of item 60 of the exclusive legislative list of the 1999 Constitution of the Federal Republic of Nigeria which empowers the National Assembly to

<sup>31</sup> *Basic Principles on the Role of Lawyers*, adopted by the eight United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990, n.14

<sup>32</sup> (1969) I AC 191 at 227-228

<sup>33</sup> (1993) NWLR (pt 381) p. 101

<sup>34</sup> *Basic Principles on the Role of Lawyers*, op. cit. nn. 24 & 25

<sup>35</sup> <https://nbalagos.org> (accessed 17/4/2025)

<sup>36</sup> <https://nigeriabar.org.ng> (accessed 17/4/2025)

<sup>37</sup> Cf. generally, Odje, M., “Historical and Clinical Examination of the Factors Predisposing The Association to The Engulfing Crisis: Remedial Action.” Paper presented at ABA Plenary Conference of the Branches, Jos, August 26-27, 1997;

<sup>38</sup> S. 33 of the 1999 Constitution of the Federal Republic of Nigeria.

make laws that will guarantee that the provisions on fundamental objectives and directive principles of governments are being followed by all government agencies.

Further, the NBA could partner with government and non-governmental agencies in the establishment, running and maintaining of functional legal aid services, legal clinics and organized pro bono works in the interest of Nigerians. Competent legal officials should be assigned to work in such establishments with adequate remuneration from the government. It will be incumbent on the legal functionaries in such establishments to receive complaints and cases of human rights violations and attend to them expeditiously. No doubt it rests on the shoulders of the NBA to create awareness among the people of their rights and how best to protect them in the face of abuse. The NBA can and when need be, bring to the knowledge of the people obnoxious governmental policies that is calculated to hurt human rights and encourage the people to protest against them. Worthy of note in this regard also is the recent pronouncement and actions of the NBA to discountenance itself and oppose vehemently the imposition of the state of emergency in Rivers State, Nigeria which witness the imposition of a Sole Administrator and removal of elected democratic leaders on 17<sup>th</sup> March 2025. In a swift show of opposition, the NBA quickly changed the venue of their August 2025 Annual General Conference scheduled in Rivers State to Enugu State stating that the idea of a Sole Administrator is unknown to the 1999 Constitution of the Federal Republic of Nigeria and that the president of Nigeria has no power under the constitution to remove elected political officers in the state without following the due process. This action of the NBA has actually put the so-called Sole Administrator of Rivers State and the Presidency into tension and convinced many other organizations to rise up against the constitutional breach taking place in Rivers State, Nigeria. It is part and parcel of the role of the of the NBA to constructively engage the various arms of government especially the executive and legislative in dialogue and remind them of their constitutional duties to the people. The NBA cannot afford to remain silent for example in the face of executive and legislative misuse of power and public funds at all levels of government in Nigeria.

**The Judges individually and collectively:** We know that judges decide human rights cases and determine if there has been a breach of a person's right or not. In a liberal democracy as we try to practice in Nigeria even though with multiple shortcomings, the law is what the judge says it is.<sup>39</sup> This fact is clearly shown in the Supreme Court of Nigeria judgement with regard to the winner of the 2023 presidential election in Nigeria. In that judgement and in many other judicial pronouncements, the judges reveal to all and sundry that what the people see as law may not really be the law and that the real law is what they (the judges) state as the law in their judgments. This being the case, the role of judges individually and collectively (as members of the bench) in the protection and promotion of human rights can never be over emphasized. Judges should welcome human rights cases and dispose them expeditiously for justice delayed is justice denied. They should be bold and courageous to give broader interpretations to fundamental rights contained in the 1999 Constitution of Nigeria in such a way as to embrace some of the provisions of chapter two which are not enforceable. In this regard, judges should borrow the practice in other jurisdictions like India where the Indian supreme court have ruled that the right to life extends to the means of livelihood for if this were not so, the easiest way to deprive a man of his life is to deprive him of his means of livelihood.<sup>40</sup> Nigerian judges should emulate this practice in their judgments in defense of human rights. It is worthy of note that when it comes to the issue of *locus standi* which is very vital for a case to be admitted in court, the Nigerian courts have extended it to persons other than the direct or sole victim of human rights abuse.<sup>41</sup> This kind of extension no doubt makes way for a greater promotion and protection of human rights. When it comes to trials in court, the judges individually and collectively should try as much as possible to be seen as impartial and independent umpires.<sup>42</sup> They should avoid arbitrary and unnecessary use of the contempt powers of the court to scare lawyers and their clients from the court.<sup>43</sup> Judges are and should see themselves as the custodians of the court of Justice and the last hope of the Nigerian citizens. They should rise up to the defense and promotion of human rights in all its ramification in Nigeria.

## 5. Conclusion

Human rights are universal, inherent and inalienable. They are provided for in Nigeria under the Constitution and the African Charter on Human and Peoples' rights. We are encouraged to know them as laid down in this paper. Knowledge of the law is a sure way of guarding the law and avoiding its abuse. The legal practitioners in Nigeria as individuals and in their respective associations owe it as a duty to protect and promote human rights recognized in legal instruments in Nigeria. There is no gain saying that they, being players in the court of justice ought to ensure a just regime of human rights protection in the country. It is not good sight to see legal professionals derailing the cause of human rights due to individual greed and excessive commercialization of the legal profession. Legal practitioners should be reminded that laws are practiced where the rule of law is observed, democracy upheld and protection of human rights the order of the day. They thus cannot afford to keep quite in the face of flagrant violence and violations of human rights in Nigeria.

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<sup>39</sup> Cf. the views of Justice Oliver Holmes who says that "the prophecies of what the courts will do in fact, and nothing more pretentious, are what I mean by law" in L.B. Curzon, *Jurisprudence*, London: Pitman, 1979, p. 186

<sup>40</sup> See the Indian case of *Jain v State of Karnataka* A.I.R 1992 Sup. Ct. 1858, 1864 (App.6); and *Olga Tellis v Bombay Municipal Corporation*, A.I.R. 1968 Sun Ct. 180 (App.7)

<sup>41</sup> See the case of *Adesanya v President* (1981) 2NCLR 358; also, the new Fundamental Rights (Enforcement Procedure) Rules which abolished the strict rule of *locus standi* in human rights abuse cases.

<sup>42</sup> See the dictum of Eso, J.S.C., in *Margret Stitich v A-G fed & ors* where it was noted that *the A.G. became a judge in his own case – in effect, he is the complainant, prosecutor and judge – but also heavily biased against the respondent.*

<sup>43</sup> See for instance the case of *Okodua v State* (1988) 2NWLR 333, where the trial judge de-robed the defense counsel and threatened to put him into prison for demanding that his client's case be transferred to another judge on noticing that the trial judge was biased in the matter against his client.