HUMAN RIGHT OR MIGHT: WHO DETERMINES THE SPATIAL DIFFERENTIATION: BEING A PAPER DELIVERED BY YUSUF ALI SAN AT THE 8TH HON. JUSTICE MURI OKUNOLA MEMORIAL LECTURE AT THE TRENCHARD HALL, UNIVERSITY OF IBADAN ON 10TH APRIL, 2013

1.00. *INTRODUCTION*

1.01 May I start by commending the laudable efforts of the young minds involved in putting together this laudable programme in honour of a jurist for whom I have great regards. I especially commend the ideals of the association and the vision behind it.

1.02 The topic I have been given to speak on is one that has always been relevant and will remain relevant for all times as human right is a concept that has been constantly evolving throughout human history. The concept of human rights remains and will ever remain most paramount in the affairs of all nations which cherish liberty and good governance.

1.03 The observance of human rights is fundamental to the stability and development of countries all around the world. Great emphasis has been placed on and their conventions international implementation in order to ensure adherence to a universal standard of acceptability.

1.04 With the advent of globalization and the introduction of new technology, the human right ideology gains significance, not only in protecting human beings from the ill-effects of change but also in ensuring that all are allowed a share of the benefits.

[1]

1.05 However, the efficacy of the mechanisms in place today to enforce the rights have been questioned in the light of blatant human rights violations and disregard for basic human dignity in nearly all countries, in one or more forms.

1.06 In many cases, those who are to blame cannot be brought book because of political considerations, power equations etc. When such violations are allowed to go unchecked, they often increase in frequency and intensity usually because perpetrators feel that they enjoy immunity from punishment.

1.07 If the public discourse of global society can be said to have a common moral language, it is that of human rights. Despite this, the strong claims made by the doctrine of human rights continue to provoke considerable scepticism and debates about the content, nature and justifications of human rights to this day. Indeed, the question of what is meant by a "right" is itself controversial and the subject of continues to be of philosophical debate.

1.08 The question that arises is, whether human right is determined by the 'might' or power of an individual. And what is the distinguishing factor between might and the right of a human being? Should the weak be allowed to go to the wall forever? These are the central issues that will be examined in this paper. In order to achieve its objective, this paper will be divided into some headings which shall be taken seriatim.

2.00 DEFINITION OF HUMAN RIGHTS

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2.01. Human rights are "commonly understood as inalienable fundamental rights to which a person is inherently entitled simply because she or he is a human being.2 Human rights are thus conceived as universal (applicable everywhere) and egalitarian (the same for everyone). These rights may exist as natural rights or as legal rights, in local, regional, national, and international law.3

2.02. Human Rights simply put, are the rights you have simply because you are human. If you were to ask people in the street, "What are human rights?" you would get different answers. They would tell you the rights they know about, but very few people know all their rights.

2.03 As covered in the definitions above, a right is a freedom of some kind. It is something to which you are entitled by virtue of being human.

2.04 Human rights are based on the principle of respect for the individual. Their fundamental assumption is that each person is a moral and rational being, who deserves to be treated with dignity. They are called human rights because they are universal. Whereas nations or specialized groups enjoy specific rights that apply only to them, human rights are the rights to which everyone is entitled-no matter who they are or where they live-simply because they are alive.

2.05 Yet many people, when asked to name their rights, will list only freedom of speech and belief and perhaps one or two others. There is no question, these are important rights, but the full scope of human rights is very broad. They mean choice and opportunity. They mean the freedom to obtain a job, adopt a career, select a partner of one's choice and raise children. They include the right to travel widely and the right to work gainfully without harassment. abuse and threat of arbitrary dismissal. They even embrace the right to leisure.

2.06 In ages past, there were no human rights. Then the idea emerged that people should have certain freedoms. And that idea, in the wake of World War II, resulted finally in the document called the Universal Declaration of Human Rights and the thirty rights to which all people are entitled.

3.00 HISTORY OF HUMAN RIGHTS

3.01 The belief that everyone, by virtue of her or his humanity, is entitled to certain human rights is fairly new. Its roots, however, lie in earlier tradition and documents of many cultures; it took the catalyst of World War II to propel human rights onto the global stage and into the global consciousness.

3.02 Throughout much of history, people acquired rights and responsibilities through their membership in a group a family, indigenous nation, religion, class, community, or state. Most societies have had traditions similar to the "golden rule of "Do unto others as you would have them do unto you." The Hindu Vedas, the Babylonian Code of Hammurabi, the Bible, the Quran and the Analects of Confucius are five of the oldest written sources which address questions of people's duties, rights, and responsibilities. In addition, the Inca and Aztec codes of conduct and justice and an Iroquois Constitution were Native American sources that existed well before the 18th century. In fact, all societies, whether in oral or written tradition, have had systems of propriety and justice as well as ways of tending to the health and welfare of their members.4

3.03 The origins of human rights may be found both in Greek philosophy and the various world religions. In the Age of Enlightenment (18th century), the concept of human rights emerged as an explicit category. Man/woman came to be seen as an autonomous

individual, endowed by nature with certain inalienable fundamental rights, that could be invoked against a government and should be safeguarded by it. Human rights were henceforth seen as elementary preconditions for an existence worthy of human dignity.

3.04 Before this period, several charters codifying rights and freedoms had been drawn up constituting important steps towards the idea of human rights. During the 6th Century, the Achaemenid Persian Empire of ancient Iran established unprecedented principles of human rights. Cyrus the Great (576 or 590 BC 530 BC) issued the Cyrus cylinder, which declared that citizens of the empire would be allowed to practice their religious beliefs freely and also abolished slavery. The next generation of human rights documents were the Magna Charta Libertatum of 1215, the Golden Bull of Hungary (1222), the Danish Erik Klipping's Håndfaestning of 1282, the Joyeuse Entrée of 1356 in Brabant (Brussels), the Union of Utrecht of 1579 (The Netherlands) and the English Bill of Rights of 1689. These documents specified rights which could be claimed in the light of particular circumstances (e.g., threats to the freedom of religion), but they did not yet contain an all-embracing philosophical concept of individual liberty. Freedoms were often seen as rights conferred upon individuals or groups by virtue of their rank or status.

3.05 In the centuries after the Middle Ages, the concept of liberty became gradually separated from status and came to be seen not as a privilege but as a right of all human beings. Spanish theologists and jurists played a prominent role in this context. Among the former, the work of Francisco de Vitoria (1486-1546) and Bartolomé de las Casas (1474-1566) should be highlighted. These two men laid the (doctrinal) foundation for the recognition of freedom and dignity of all humans by defending the personal rights of the indigenous peoples inhabiting the territories colonised by the Spanish Crown.

3.06 The Enlightenment was decisive in the development of human rights concepts. The ideas of Hugo Grotius (1583-1645), one of the fathers of

modern international law, of Samuel von Pufendorf (1632-1694), and of John Locke (1632-1704) attracted much interest in Europe in the 18th century. Locke, for instance, developed a comprehensive concept of natural rights, his list of rights consisting of life, liberty and property. Jean-Jacques Rousseau (1712-1778) elaborated the concept under which the sovereign derived his powers and the citizens their rights from a social contract. The term human rights appeared for the first time in the French Declaration des Droits de l'Homme et du Citoyen (1789).

3.07 The people of the British colonies in North America took the human rights theories to heart. The American Declaration of Independence of 4 July 1776 was based on the assumption that all human beings are equal. It also referred to certain inalienable rights, such as the right to life, liberty and the pursuit of happiness. These ideas were also reflected in the Bill of Rights which was promulgated by the state of Virginia in the same year. The provisions of the Declaration of Independence were adopted by other American states, but they also found their way into the Bill of Rights of the American Constitution. The French Déclaration des Droits de l'Homme et du Citoyen of 1789, as well as the French Constitution of 1793, reflected the emerging international theory of universal rights. Both the American and French Declarations were intended as systematic enumerations of these rights.

3.08 The classic rights of the 18th and 19th centuries related to the freedom of the individual. Even at that time, however, some people believed that citizens had a right to demand that the government endeavour to improve their living conditions. Taking into account the principle of equality as contained in the French Declaration of 1789, several constitutions drafted in Europe around 1800 contained classic rights, but also included articles which assigned responsibilities to the government in the fields of employment, welfare, public health, and education. Social rights of this kind were also expressly included in the Mexican Constitution of 1917, the Constitution of the Soviet Union of 1918 and the German Constitution of 1919.

3.09 In the 19th century, there were frequent inter-state disputes relating to the protection of the rights of minorities in Europe. These conflicts led to several humanitarian interventions and calls for international protection arrangements. One of the first such arrangements was the Treaty of Berlin of 1878, which accorded special legal status to some religious groups. It also served as a model for the Minorities System that was subsequently established within the League of Nations.

3.10 The need for international standards on human rights was first felt at the end of the 19th century, when the industrial countries began to introduce labour legislation. These legislations, which raised the cost of labour, had the effect of worsening their competitive position in relation to countries that had no labour laws. Economic necessity forced the states to consult each other. It was as a result of this that the first conventions were formulated, in which states committed themselves vis-à-vis other states in regard to their own citizens. The Bern Convention of 1906 prohibiting night-shift work by women can be seen as the first multilateral convention meant to safeguard social rights. Many more conventions were later to be drawn up by the labour International Labour Organisation (ILO), founded in 1919 (see II§1.D)5. Remarkable as it may seem, therefore, while the classic human rights had been acknowledged long before social rights, the latter were first embodied in international regulations.

3.11 The atrocities of World War II put an end to the traditional view that states have full liberty to decide the treatment of their own citizens. The signing of the Charter of the United Nations (UN) on 26th June 1945 brought human rights within the sphere of international law. In particular, all UN members agreed to take measures to protect human rights. The Charter contains a number of articles specifically referring to human rights. Less than two years later, the UN Commission on Human Rights (UNCHR), established

early in 1946, submitted a draft Universal Declaration of Human Rights (UDHR) to the UN General Assembly (UNGA). The Assembly adopted the Declaration in Paris, on 10th December 1948. This day was later designated Human Rights Day.

3.12 During the 1950s and 1960s, more and more countries joined the UN7. Upon joining they formally accepted the obligations contained in the UN Charter, and in doing so subscribed to the principles and ideals laid down in the UDHR. This commitment was made explicit in the Proclamation of Teheran (1968), which was adopted during the first World Conference on Human Rights, and repeated in the Vienna Declaration and Programme of Action, which was adopted during the second World Conference on Human Rights (1993).

3.13 Since the 1950s, the UDHR has been backed up by a large number of international conventions. The significant of these conventions are the International Covenant on Civil and Political Rights most (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). These two Covenants together with the UDHR form the International Bill of Human Rights. At the same time, many supervisory mechanisms have been created, those responsible for including compliance with the two Covenants, monitoring

3.14 Human rights have also been receiving more and more attention at the regional level. In the European, the Inter-American and the African context, standards and supervisory mechanisms have been developed that have already had a significant impact on human rights compliance in the respective continents, and promise to contribute to compliance in the future.9

4.00 CLASSIFICATION OF HUMAN RIGHTS

4.01 The term 'human rights' is used to denote a broad spectrum of rights, ranging from the right to life, to the right to a cultural identity. They involve all elementary preconditions for a dignified human existence. These rights can be ordered and specified in different ways. At the international level, a distinction has sometimes been made between civil and political rights, on the one hand, and economic, social and cultural rights on the other. Note however, that the various categorisations overlap to a considerable extent.

4.02

Although human rights have been classified in a number of different manners, it is important to note that international human rights law stresses that all human rights are universal, indivisible and interrelated10. The indivisibility of human rights implies that no right is more important than any other.

1. CLASSIC AND SOCIAL RIGHTS

One classification used is the division between 'classic' and 'social' rights. 'Classic' rights are often seen to require the non-intervention of the state (negative obligation), and 'social rights' as requiring active intervention on the part of the state (positive obligations). In other words, classic rights entail an obligation for the state to refrain from certain actions, while social rights oblige it to provide certain guarantees. Lawyers often describe classic rights in terms of a duty to achieve a given result ('obligation of result') and social rights in terms of a duty to provide the means ('obligations of conduct'). The evolution of international law, however, has led to this distinction between 'classic' and 'social' rights becoming increasingly awkward. Classic rights such as civil and political rights often require considerable investment by the state. The state does not merely have the obligation to respect these rights, but must also guarantee that people can effectively enjoy them. Hence, the right to a fair trial, for instance, requires well-trained judges, prosecutors, lawyers and police

officers, as well as administrative support. Another example is the organisation of elections, which also entails high costs.

On the other hand, most 'social' rights contain elements that require the state to abstain from interfering with the individual's exercise of the right.

As several commentators note, the right to food includes the right for everyone to procure their own food supply without interference; the right to housing implies the right not to be a victim of forced eviction; the right to work encompasses the individual's right to choose his/her own work and also requires the state not to hinder a person from working and to abstain from measures that would increase unemployment; the right to education implies the freedom to establish and direct educational establishments; and the right to the highest attainable standard of health implies the obligation not to interfere with the provision of health care.

In sum, the differentiation of 'classic' rights from 'social' rights does not reflect the nature of the obligations under each set of rights.

2. CIVIL, POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS

a. Civil rights: The term 'civil rights' is often used with reference to the rights set out in the first eighteen articles of the UDHR, almost all of which are also set out as binding treaty norms in the ICCPR. From this group, a further set of 'physical integrity rights' has been identified, which concern the right to life, liberty and security of the person, and which offer protection from physical violence against the person, torture and inhuman treatment, arbitrary arrest, detention, exile, slavery and servitude, interference with one's privacy and right of ownership, restriction of one's freedom of movement, and the freedom of thought, conscience and religion. The difference between basic rights' and 'physical integrity rights' lies in the fact that the

former include economic and social rights, but do not include rights such as protection of privacy and ownership.

Although not strictly an integrity right, the right to equal treatment and protection in law certainly qualifies as a civil right. Moreover, this right plays an essential role in the realisation of economic, social and cultural rights.

Another group of civil rights is referred to under the collective term 'due process rights. These pertain, among other things, to the right to a public hearing by an independent and impartial tribunal, the 'presumption of innocence', freedom from double jeopardy and legal assistance[11]".

b. Political rights: In general, political rights are those set out in Articles 18 to 22 and 25 UDHR and also codified in the ICCPR. They include freedom of expression, freedom of association and assembly, the right to take part in the government of one's country and the right to vote and stand for election at genuine periodic elections held by secret ballot[12].

c. Economic and social rights: The economic and social rights are listed in Articles 22 to 26 UDHR, and further developed and set out as binding treaty norms in the ICESCR. These rights provide the conditions necessary for prosperity and wellbeing. Economic rights refer, for example, to the right to property, the right to work, which one freely chooses or accepts, the right to a fair wage, a reasonable limitation of working hours, and trade union rights. Social rights are those rights necessary for an adequate standard of living, including rights to health, shelter, food, social care, and the right to education [13].

d. Cultural rights: The UDHR lists cultural rights in Articles 27 and 28: the right to participate freely in the cultural life of the community, the right to share in scientific advancement and the right to the protection of the moral and material

interests resulting from any scientific, literary or artistic production of which one is the author[14].

THE ALLEGED DICHOTOMY BETWEEN CIVIL AND POLITICAL RIGHTS, AND ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Traditionally, it has been argued that there are fundamental es between economic, social and cultural rights, and civil and political rights. These two categories of rights have been seen as two different concepts and their differences have been characterised as a dichotomy. According to this view, civil and political rights are considered to be expressed in very precise language, imposing merely negative obligations which do not require resources for their implementation, and which therefore can be applied immediately. On the other hand, economic, social and cultural rights are considered to be expressed in vague terms, imposing only positive obligations conditional on the existence of resources and therefore involving a progressive realisation.

As a consequence of these alleged differences, it has been argued that civil and political rights are justiciable, whereas economic, social and cultural rights are not. In other words, this view holds that only violations of civil and political rights can be adjudicated by judicial or similar bodies, while economic, social and cultural rights are 'by their re' non-justiciable.

Over the years, economic, social and cultural rights have been re-examined and their juridical validity and applicability have been increasingly stressed.

During the last decade, we have witnessed the development of a large and growing body of case law of domestic courts concerning economic, social and cultural rights. This case law, at the national and international level, suggests a potential role for

creative and sensitive decisions of judicial and quasi-judicial bodies with respect to these rights.

Many international fora have elaborated on the indivisibility and interdependency of human rights. As stated in the 1993 Vienna Declaration and Programme of Action.

> ***'All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis.'***

The European Union (EU) and its member states have also made it clear on numerous occasions that they subscribe to the view that both categories of human rights are of equal importance, in the sense that an existence worthy of human dignity is only possible if both civil and political rights and economic, social and cultural rights are enjoyed. In their Declaration of 21 July 1986, they affirmed that;

"The promotion of economic, social and cultural rights as well as of civil and political rights is of paramount importance for the full realisation of human dignity and for the attainment of the legitimate aspirations of every individual.'

The so-called Limburg Principles on the Implementation of the ICESCR also indicate that a sharp distinction between civil and political rights on the one hand and economic, social and cultural rights on the other is not accurate. These principles were drawn up in 1986 by a group of independent experts, and followed in 1997 by the Maastricht Guidelines on Violations of Economic, Social and Cultural Rights. Together, these documents provide a clear explanation of the nature of the state party obligations under the ICESCR. [15]

Fortunately, continuous international level on declarations at the indivisibility and interdependency of all rights, have finally been codified by way of the recently adopted Optional Protocol to the ICESCR. States parties to the Optional Protocol will recognise the competence of the Committee on Economic, Social and Cultural Rights to receive and consider individual and collective complaints alleging violations of economic, social and cultural rights set forth in the ICESCR. The Committee will also be empowered to request interim measures to avoid possible irreparable damage to the victims of the alleged violations and, where it receives reliable information indicating grave or systematic violations, it shall conduct an inquiry which may include a visit to the state party.

The adoption of the Optional Protocol on the 60th anniversary of the UDHR, on 10 December 2008, represents an historic advance for human rights. Firstly, economic, social and cultural rights historically demoted to an inferior status with limited protection are now finally on an equal footing with civil and political rights. Secondly, through an individual complaints procedure, the meaning and scope of these rights will become more precise, facilitating efforts to respect and guarantee their enjoyment. Thirdly, the existence of a potential 'remedy' at the international level will provide an incentive to individuals and groups to formulate some of their economic and social claims in terms of rights. Finally, the possibility of an adverse 'finding' of the Committee on Economic, Social and Cultural Rights will give economic, social and cultural rights salience in terms of the political concerns of governments; which these rights largely lack at present.

3. **FUNDAMENTAL AND BASIC RIGHTS**

Fundamental rights are taken to mean such rights as the right to life and the inviolability of the person. Within the UN, extensive standards have been developed which, particularly since the 1960s, have been laid down in numerous conventions, declarations and resolutions, and which bring already recognised rights and matters of policy which affect human development into the sphere of human rights. Concern that a broad definition of human rights may lead to the notion of 'violation of human

rights' losing some of its significance has generated a need to distinguish a separate group within the broad category of human rights. Increasingly, the terms 'elementary', 'essential', 'core' and 'fundamental' human rights are being used.

Another approach is to distinguish a number of 'basic rights', which should be given absolute priority in national and international policy. These include all the rights which concern people's primary material and non-material needs. If these are not provided, no human being can lead a dignified existence. Basic rights include the right to life, the right to a minimum level of security, the inviolability of the person, freedom from slavery and servitude, and freedom from torture, unlawful deprivation of liberty, discrimination and other acts which impinge on human dignity. They also include freedom of thought, conscience and religion, as well as the right to suitable nutrition, clothing, shelter and medical care, and other essentials crucial to physical and mental health.

of so-called Mention should also be made 'participation rights'; for instance, the right to participate in public life through elections tor to take part in cultural life. These participation rights are generally considered to belong to the category of fundamental rights, being essential preconditions for the protection of all kinds of basic human rights.

4. OTHER CLASSIFICATIONS

a. Freedoms: Preconditions for a dignified human existence have often been described in terms of freedoms (e.g., freedom of movement, freedom from torture and freedom from arbitrary arrest). United States President Franklin D. Roosevelt summarised these preconditions in his famous 'Four Freedoms Speech' to the United States Congress on 26 January 1941:

i. Freedom of speech and expression;

ii. Freedom of belief (the right of every person to worship God in his own way);

iii. Freedom from want (economic understandings which will secure to every nation a healthy peace-time life for its inhabitants); and

iv. Freedom from fear (world-wide reduction of armaments to such a point and in such a thorough fashion that no nation would be able to commit an act of physical aggression against any neighbour).

Roosevelt implied that a dignified human existence requires not only protection from oppression and arbitrariness, but also access to the primary necessities of life.

b. Civil liberties: The concept of 'civil liberties' is commonly known, particularly in the United States, where the American Civil Liberties Union (a non-governmental organisation) has been active since the 1920s. Civil liberties refer primarily to those human rights which are laid down in the United States Constitution: freedom of religion, freedom of the press, freedom of expression, freedom of association and assembly, protection against interference with one's privacy, protection against torture, the right to a fair trial, and the rights of workers. This classification does not correspond to the distinction between civil and political rights.

c. Individual and collective rights: Although the fundamental purpose of human rights is the protection and development of the individual (individual rights), some of these rights are exercised by people in groups (collective rights). Freedom of association and assembly, freedom of religion and, more especially, the freedom to form or join a trade union, fall into this category. The collective element is even more evident when human rights are linked specifically to membership of a certain group, such as the right of members of ethnic and cultural minorities to preserve their own language and culture. One must make a distinction between two types of rights,

which are usually called collective rights: individual rights enjoyed in association with others, and the rights of a collective.

The most notable example of a collective human right is the right to self-determination, which is regarded as being vested in peoples rather than in individuals[17]. The recognition of the right to self-determination as a human right is grounded in the fact that it is seen as a necessary precondition for the development of the individual. It is generally accepted that collective rights may not infringe on universally accepted individual rights, such as the right to life and freedom from torture.

FIRST, SECOND AND THIRD GENERATION RIGHTS

The division of human rights into three generations was first proposed by Karel Vasak at International Institute of Human Rights in Strasbourg. His division follows the principles of Liberté, Égalité and Fraternité of the French Revolution.

First generation rights are related to liberty and refer fundamentally to civil and political rights. The second generation rights are related to equality, including economic, social and cultural rights. Third generation or 'solidarity rights' cover group and collective rights, which include, inter alia, the right to development, the right to peace and the right to a clean environment. The only third generation right which so far has been given an official human rights status apart from the right to self determination, which is of longer standing is the right to development [18.] The Vienna Declaration confirms the right to development as a collective as well as an individual right, individuals being regarded as the primary subjects of development. Recently, the right development has been given considerable attention in the activities of the High Commissioner for Human Rights. Adoption of a set of criteria

for the periodic evaluation of global development partnerships from the perspective of the right to development by the Working Group on the Right to Development, in January, 2006, evidence the concrete steps being taken in this area. The EU and its member states also explicitly accept the right to development as part of the human rights concept.

the While the classification of rights into 'generations' has the virtue of incorporating communal and collective rights, thereby overcoming individualist moral theory in which human rights are grounded, it has been criticised for not being historically accurate and for establishing a sharp distinction between all human rights. [19]

5.00 ENFORCEMENT OF HUMAN RIGHTS IN NIGERIA

5.01 Many factors have affected the enforcement of human rights in Nigeria. The average citizens lose sight of what their rights actually are in the face of the butt of a gun or the threat of imprisonment, whether or not it is deserved or not. The security agencies are not unaware of this fact and have thus exploited it in trampling on the rights of citizens.

5.02 For the agencies like the police whose lot it is to deal directly with the civil populace, the charge against them is that they are the major violators of human rights. There are several reported cases of rape, extra-judicial and arbitrary executions, torture, inhuman and degrading treatment of inmates in Police custody. The litany of complaints made against the personnel of the Police is all too well known. [20]

5.03 Torture is still practised as a pervasive and routine component of the criminal justice and law enforcement process. The two basic forms of torture are dehumanising custodial conditions and corporal torture. Essentially, they are discriminatory and selectively applied against the poor, uneducated and

powerless citizens. Extra-judicial executions are also despread. Despite this, the authorities' internal and external oversights mechanisms for investigating misconduct and ensuring accountability are weak and grossly inadequate.

5.04 The most basic of the rights highlighted above are yet to be realised by the average Nigerian, who is not classified among the mighty in the country.

5.05 Globally, the champions of human rights have most often been citizens, not government officials. In particular, nongovernmental organizations (NGOs) have played a cardinal role in focusing the international community on human rights issues. For example, NGO activities surrounding the 1995 United Nations Fourth World Conference on Women in Beijing, China, drew unprecedented attention to serious violations of the human rights of women. NGOs such as Amnesty International, the Antislavery Society, the International Commission of Jurists, the International Working Group on Indigenous Affairs, Human Rights Watch, Minnesota Advocates for Human Rights, and Survivors International monitor the actions of governments and pressure them to act according to human rights principles.

6.00 HUMAN RIGHT OT MIGHT?

6.01 The old saying Power corrupts; infinite power corrupts infinitely' is the eternally true corollary to the Hitlerite slogan "Might is Right." It is a valid truth in practically every sphere of human life. 'Might', or the possession of total power by either an individual or a group seems to bring out the most universally-condemned failings of mankind; pride, arrogance, contempt of the weak, and the presumption of infallibility. It is often mingled with fear.

6.02 The dangers of the 'Might is Right doctrine are very apparent in the field of politics. If a president becomes dictatorial, we discover that soon

democratic processes wither and die, and that ultimately, even the rule of law is challenged. The head of a police state, however, lives in fear, hence, the imprisonment of opponents, the armed escorts, the arbitrary changes of law, the oppression of minorities. Domestic and foreign affairs are handled automatically and capriciously, other countries being alienated. Totalitarian states carry within themselves the seeds of their own destruction; Julius Caesar, Genghis Khan and Adolf Hitler all bear witness to the fact. Eventually people rebel. The tyrant or the caucus falls to the assassin. 'Might may be right for a time, but rarely for very long.

6.03 In the modern business world, the principle has regrettably many adherents. Many a headline tells of the 'take-over bid, the price ring, the 'squeeze' put on the small business man. Often, the public suffers from high prices and over standardization of products, but, this is partly competition of a free state in the commercial and business world, and partly by Government intervention, sometimes in the form of the nationalization of basic supplies and the sources of raw materials.

6.04 The Law of Identity, when applied to Man, states that his nature is such that at birth he is endowed by his existence with individual sovereignty. When he gives up part of it to the "common sovereignty" which we call the "consent of the governed," it implies that he has such sovereignty to give up.

6.05 Might in the wild is different than might in reason. Man is the "rational animal," and as such, "right" is that which is good for the species and for each individual, without which there would be no species.

6.06 That which is good for the individual is to protect his sovereignty, with might, if necessary. Those who are stronger have more power, thus it gives them more say to what goes on. In the legal system it is the officials that have the power because they make the laws. The laws are what society is based on

and a good citizen is RIGHT in following them. So those with the most might are those who make what is right and what is wrong.

7.00 RECOMMENDATIONS

7.01 It is undoubted that the observance and the enforcement of fundamental rights are very weak in Nigeria due to ignorance, poverty, official cover ups, inadequacy for enforcement and official apathy.

7.02 To bring the observance and enforcement of human rights to the best practices in Nigeria, the following recommendation should be considered.

1) There must be massive enlightenment campaigns to educate the citizenry about the existence of the rights and the way to seek enforcement.

2) Free legal aid should be available for the enforcement of human rights.

3) Education, health and shelter should be promoted to fundamental rights and made justiciable.

4) We must set up an Independent Police Complaints Commission like in England and Wales to investigate all issues of abuses, excesses, illegal conduct and other negative tendencies of the police.

5) The National Human Rights Commission should be strengthened by amending the enabling legislation to give it more power, in particular it should be able to approach the courts on behalf of indigent Nigerians, who are victims of breach of fundamental human rights.

6) Victims of breach of fundamental human rights should be treated as victims of crime and be paid compensation statutorily provided for.

7) The fundamental human rights provisions in the Constitution should be translated into all major Nigerian languages.

8) Human right courses should be taught at all levels of our educational system, from primary to tertiary.

9) The courts should be proactive in their interpretative role in the enforcement of fundamental human rights of the citizens, like India.

10) There should be no limitation as to when a citizen can seek the enforcement of the breach of his fundamental human right. In other words, the enforcement of a breach should be timeless.

11) The rules of locus standi should be seriously relaxed on matters pertaining to breaches of the fundamental rights of the citizens.

8.00 CONCLUSION

8.01 Government officials who understand the human rights framework can also effect far reaching change for freedom. Many United States Presidents have taken strong stands for human rights. In other countries, leaders like Nelson Mandela and Vaclev Havel have brought about great changes under the banner of human rights.

8.02 Human rights is an idea whose time has come. The Universal Declaration of Human Rights is a call to freedom and justice for people throughout the world. Every day, governments that violate the rights of their citizens are challenged and called to task. Every day human beings worldwide mobilize and confront injustice and inhumanity. Like drops of water falling on a rock, they wear down the forces of oppression and move the world closer to achieving the principles expressed in the Universal Declaration of Human Rights.

8.03 The government must renew its commitment to genuine police reform, work towards guaranteeing public safety and welfare and the full enjoyment of human rights by all Nigerians. 'Might' may have 'right' on its side in a major war, and people generally accept the morality of a greater force putting down a tyranny. 'Might' is also 'right' in the sphere of sport, where the best man wins, and is applauded for doing so.

8.04 But humanity never allows the weak to go to the wall forever. Power is dangerous, and therefore feared. History had taught us to shun the 'might is right principle. We can only hope that a more civilized principle will govern the actions of those individuals and security agencies that today have a stake in the space age.

8.05 Let me draw the curtain on this discourse by saying that most leaders who abuse the rights of their citizens, eventually themselves become victims of the perfidy they put in place when in power. The examples surround us and stare us in the face. Those who have ears, as our people say, let them listen.

8.06 God bless you all.