

SECURING HUMAN SECURITY AND THE RIGHT TO DEVELOPMENT IN NIGERIA

By

Jennifer Heaven Mike*

Abstract

Human security and development complement each other in several ways. Security is central to every society since it affects all aspects of social, cultural, civil, political and economic growth and development. Securing human lives is at the core of the right to development as a peaceful and secured environment is significant to pursuing development objectives. Peace, whether mental, emotional or physical, is an essential precondition for sustainable development in many ways. When people's lives are threatened by fear of attacks, want, poverty, indignity and socio-economic challenges, they are less likely to pursue or attain their development goals. Contrastingly, stability and safety lead to an improvement of livelihood, prospects and trust in the government or system and when people feel safe, they can further contribute in return to the enhancement of political and economic stability. This article aims to highlight the positive gains of approaching the issues of insecurity in Nigeria from a development perspective. It calls for an integrated approach to address the issues of security as a human right and a matter for development. The central argument made here is that when human security is guaranteed, development is well advanced.

Keywords: *Human Development, Human Security, Welfare, Threats, Terrorism, Harm*

1.0 Introduction

Human security is a fundamental right that secures the lives of people, their communities, prospects, livelihood and welfare. Human security has two interrelated dimensions. The first aspect deals with the threats to lives, property and peace. The second aspect covers threats to living a meaningful life such as illiteracy, hunger/ poor nutrition, unemployment, inequality, poverty and other welfare deprivations. Security in this sense extends to the security of the people, not just a territorial jurisdiction.¹ The right to development, on the other hand, is the quintessential right to advancement, growth, positive change and sustainable progress in all aspects of a human's life. It pertains to the freedom and opportunity to pursue one's development goals. The first UNDP

*Assistant Professor of Law, American University of Nigeria, Yola, Adamawa state, Director, Centre for Governance, Human Rights and Development (CGHRD), Chair, Department of Public Law

¹ Luke Johns 'A Critical Evaluation of the Concept of Human Security' (2014) E-International Relations. <https://www.e-ir.info/2014/07/05/a-critical-evaluation-of-the-concept-of-human-security/>

Human Development Report published in 1990 states in this respect that ‘the basic objective of development is to create an enabling environment for people to enjoy long, healthy and creative lives.’²

Human security and development complement each other in several ways. Security is central to every society since it affects all aspects of social, cultural, civil, political and economic growth and development. Securing human lives is at the core of the right to development as a peaceful and secured environment is significant to pursuing development objectives. Peace, whether mental, emotional or physical, is an essential precondition for sustainable development in many ways. When people’s lives are threatened by fear of attacks, want, poverty, indignity and socio-economic challenges, they are less likely to pursue or attain their development goals. Contrastingly, stability and safety lead to an improvement of livelihood, prospects and trust in the government or system and when people feel safe, they can further contribute in return to the enhancement of political and economic stability.³

Development also precipitates the improvement of human security and provides a stable environment for people to thrive. Conversely, an abysmal state of development can also trigger insecurity, including contests over resource control, economic, social and political inequalities, corruption, abuse of office and related financial crimes, terrorism, kidnapping, protracted crises, oppression, and conflict over scarce resources, etc.⁴ Development, therefore, is intrinsically linked to security. Human security is, therefore, a factor and an enabler of development as it is instrumental to achieving development and *vice versa*.

This article highlights the positive gains of approaching the issues of insecurity in Nigeria from a development perspective. It calls for an integrated approach to address the issues of security as a human right and a matter for development. The central argument made here is that when human security is guaranteed, development is well advanced.

1.2 The Right to Human Security

The right to security is articulated in Article 3 of the Universal Declaration of Human Rights (UDHR) thus: ‘everyone has the right to life, liberty and security of person.’ The import of personal security to human life, freedom and liberty is so powerful that it is categorised in the same enabling article. The link between human security and the enjoyment of other human rights is further reinforced by Article 9 of the International Covenant on Civil and Political Rights (ICCPR)⁵ and

² United Nations Development Programme (UNDP) *Human Development Report 1990* (1990 UNDP)

³ C.V. Odoeme, ‘Evaluation of Human Security Under the Nigeria Constitution’ *NILDS Journal Of Law Review* (Maiden Edition) 1, No. (2018) 52 – 70

⁴ Stockholm International Peace Research Institute, *SIPRI Yearbook 2015* (Stockholm International Peace Research Institute, 2015)

⁵ UDHR Article 9 states that ‘Everyone has the right to liberty and security of person’

Article 5 of the African Charter on Human and People's Rights (African Charter).⁶ Human security refers to the security of people's lives as opposed to the defence of the territorial integrity of the state.⁷ In this sense, human beings, including their livelihoods, and wellbeing, are the object of concern. Although the right to security of person requires the State to provide reasonable means to protect and secure the citizen's physical security, it extends beyond physical violence or national security of a sovereign political order. The 1994 United Nations Development Programme (UNDP) defined human security as both 'safety from such chronic threats as hunger, disease and repression' and 'protection from sudden and hurtful disruptions in the patterns of daily life—whether in our homes, in our jobs, in our communities or in our environment'.⁸ The UNDP broadly list seven categories of threats to human security viz:

- Economic security
- Food security
- Health security
- Environmental security
- Personal security
- Community security
- Political security

It is often expressed as freedom from want, freedom from fear and freedom from indignity.⁹ To this extent, this people-centred paradigm revolves around the defence of human life and securing their welfare. Nevertheless, national security, in so far as it removes threats to lives and properties, and ensures human security and protection from harm, is also central to the guarantee of human security.

1.3 Human Security in Nigeria

Like many developing countries, Nigeria is plagued with issues of insecurity and human rights challenges that have threatened the lives of the people and caused indescribable damage to the social life and economic growth of the people and the nation.¹⁰ Almost every part of the country has witnessed its fair share of security challenges that have threatened the stability of the nation

⁶ 'Every individual shall have the right to liberty and the security of person'.

⁷ Walter Dorn 'Human Security: An Overview'

<https://walterdorn.net/23-human-security-an-overview#:~:text=Article%20of%20the%20Universal,Canada%2C%20reaffirm%20the%20same%20right>.

⁸ United Nations Development Programme [UNDP], Human Development Report 1994, 23

⁹ United Nations Development Programme, '2022 Special Report: New threats to human security in the Anthropocene Demanding greater solidarity' (2022)

¹⁰ Human Rights Watch, 'Nigeria: Heightened Insecurity Threatens Rights Slow Progress on Justice for Security Force Abuses' 2019 Human Rights Watch

and crippled some parts of the country.¹¹ The root causes of human insecurity in Nigeria are intertwined and multifaceted. Physical security is threatened by terrorist attacks, religious/ethnic crises, clashes between nomadic animal herders and farming communities, violent banditry, kidnapping and armed robbery.¹² From December 2022 to date, armed terrorist groups and bandits have kidnapped over 1,000 students from their schools, with many killed, forced to join the group or released after large sums have been paid as ransom. It's been 8 years since the infamous abduction of young schoolgirls from Chibok, Borno State yet, some are still in the custody of the terrorists.¹³ Since then school attacks and kidnapping have steadily risen over the years with devastating effects. Recently, terrorists attacked a Kaduna-bound train, killing at least nine people, injuring many and abducting no fewer than 68 passengers, including two pregnant women.¹⁴ This state of affairs is compounded by insurgency/violent secessionist movements, extremist ideologies, communal fighting and militancy that poses a real threat to lives, business activities, food security education, health and sustainable development.¹⁵

The lingering security challenge is fuelled by a lack of political will and institutional capacity and government failure to address the root causes of Nigeria's crises.¹⁶ This is in addition to the wanton disregard of lives and arbitrary killings, use of excessive force and other gross human rights violations by security forces who are meant to deal with security issues.¹⁷ The failure of security forces to effectively respond to attacks results from inadequate military equipment and expertise.¹⁸

Poverty stands at the top of the list of threats to human survival and human development. Poverty in Nigeria is characterised by lack of access to resources, abysmal living standards, unsanitary living conditions, exposure to crime and lack of or inadequate access to basic necessities of life

¹¹ Aliyu Tanko, 'Nigeria's security crises - five different threats' BBC. 19 July 2021
<https://www.bbc.com/news/world-africa-57860993>

¹² Bashir Bello, Mustapha Muhammad Abdullahi, 'Farmers-Herdsman Conflict, Cattle Rustling, and Banditry: The Dialectics of Insecurity in Anka and Maradun Local Government Area of Zamfara State, Nigeria' (2021) Sage Publications 11 (4)

¹³ MaryAnne Iwara, 'How Mass Kidnappings of Students Hinder Nigeria's Future: Boko Haram and now banditry force children out of schools, risking a 'lost generation.' Thursday, July 8, 2021. The United States Institute of Peace

¹⁴ THISDAY, Pregnant Woman Abducted in Kaduna-bound Train Delivers in Captivity
April 27, 2022. <https://www.thisdaylive.com/index.php/2022/04/27/pregnant-woman-abducted-in-kaduna-bound-train-delivers-in-captivity/>

¹⁵ I.C. Achumba, O. S. Ighomereho, and M. O. M. Akpor-Robaro 'Security Challenges in Nigeria and the Implications for Business Activities and Sustainable Development' (2013) (4) (2) Journal of Economics and Sustainable Development 79

¹⁶ Ibid; Ejiroghene Augustine Oghuvbu and Blessing Oluwatobi Oghuvbu 'Corruption and The Lingering Of Insecurity Challenges In Nigeria' (2020) Journal of Public Administration, Finance and Law, 18.

¹⁷ Felix Daniel Nzarga, 'An Analysis of Human Rights Violation by the Nigerian: Security Services' (2014) Journal of Law, Policy and Globalization 30,

¹⁸ Achumba, Ighomereho and Akpor-Robaro (n 15)

such as nutritious food, clean drinking water, and shelter and access to healthcare.¹⁹ It is little wonder that Nigeria's current human development index (HDI) value for 2019 is 0.539.

Furthermore, Nigeria's positioning in the HDI index used by the United Nations for assessing long-term progress in three basic dimensions of human development: a long and healthy life, access to knowledge and a decent standard of living is 161 out of 189 countries and territories which put the country in the low human development category.²⁰ The menace of corruption, political discrimination, nepotism, marginalization and abuse of power have eaten deep into the fabric of Nigerian society, weakening social institutions, robbing the people of social justice and aggravating the complexity of poverty in the country.²¹ Nigeria has made giant strides in its legal and policy commitment to education, however, the educational system is still bisected by a myriad of issues ranging from poor funding, infrastructural decay and lack of maintenance, shortage of quality teachers, incessant protracted strike actions etc.²² At the time of this writing, teaching and research at public universities have been on standstill for months due to the recurrent strike by university teachers' unions who are demanding better salaries, improved working conditions and conducive teaching environments.²³ According to UNICEF, the free and compulsory education policy of Nigeria has not yielded a great result as 10.5 million of the country's children aged 5-14 years are not in school.²⁴ Furthermore, only 61 percent of 6-11 year-olds are said to attend primary school and only an estimated 35.6 percent of children between the ages of 36-59 months receive early pre-school education.²⁵

Gender inequality and violence against women and girls are largely driven by social barriers, socio-economic and cultural norms, intolerance and discrimination and these continue to undermine their human security.²⁶ Economic hardship, recession, income decline, inflation and unemployment have amplified the plight of the masses and doused violent tensions and crime in

¹⁹ Ibukunoluwa Bose Olojede and Goodnews Osah (2020) (6) (2) 'Political Corruption and Human Security in Nigeria' RUJMASS.

²⁰ UNDP Human Development Report 2020, 'The Next Frontier: Human Development and the Anthropocene, Briefing note for countries on the 2020 Human Development Report, Nigeria' <https://hdr.undp.org/sites/default/files/Country-Profiles/NGA.pdf>

²¹ Ibukunoluwa Bose Olojede and Goodnews Osah; United Nations Office On Drugs and Crime 'Corruption in Nigeria: Patterns and Trends, Second Survey On Corruption as Experienced by The Population' United Nations Office On Drugs and Crime (2019)

²² L. O. Odia and S.I. Omofonmwan, 'Educational System in Nigeria Problems and Prospects' (2007) (14) (1) *Journal of Social Sciences* 86-85

²³ Abdullahi Tsanni, 'Huge strikes at Nigeria's universities are disrupting research' *Nature*. 02 March 2022

²⁴ UNICEF Education: Challenges'

<https://www.unicef.org/nigeria/education#:~:text=Even%20though%20primary%20education%20is,months%20receive%20early%20childhood%20education.>

²⁵ Ibid.

²⁶ Makama, Godiya Allanana, 'Patriarchy and Gender Inequality In Nigeria: The Way Forward' (2013) *European Scientific Journal* June 9 17

the country.²⁷ Conflict theory indicates that the fundamental and underlying cause of crime is the oppression of the minorities, impunity, biases of socioeconomic forces and entrenched poverty within society.²⁸ The frequency and severity of natural disasters and drought due to climate change and environmental degradation have risen drastically and grossly affected food security, water availability, farming practices and living arrangements.²⁹

To address the mounting challenges of human security in Nigeria, a new development paradigm is necessary to put the people's interests, welfare, security and lives at the centre of government policies and actions. The Nigerian 1999 Constitution provides some foundational legal frameworks for securing human security in Nigeria. Indeed, Section 14 (1) declares that the 'Federal Republic of Nigeria shall be a State based on the principles of democracy and social justice' and Section 14(2)(b) reiterates that 'the security and welfare of the people shall be the *primary purpose of government*.'³⁰ Other provisions aim to promote national unity and instigate national loyalty, and encourage a sense of belonging and loyalty among all the people of the Federation.³¹ The state is also duty bound to promote national integration and eliminate all forms of discrimination, particularly, on the grounds of place of origin, sex, religion, status, ethnic or linguistic association or ties.³² To enhance economic development and human security, the state is to harness the resources of the nation and promote national prosperity and an efficient, a dynamic and self-reliant economy; and control the national economy in such manner as to secure the maximum welfare, freedom and happiness of every citizen on the basis of social justice and equality of status and opportunity; and protect the right of every citizen to engage in any economic activities.³³ The Constitution also makes specific provisions for an equal and just social order.³⁴

Accordingly, every citizen is entitled to equality of rights, obligations and opportunities before the law.³⁵ The sanctity of the human person is to be acknowledged by all; human dignity is to be

²⁷ The World Bank, 'The World Bank in Nigeria: Overview' Oct 11, 2021 <https://www.worldbank.org/en/country/nigeria/overview> Oladeinde Olawoyin 'Nigerians battle unprecedented hardship as Buhari nears 7 years in office' March 10, 2022 <https://www.premiumtimesng.com/news/headlines/516438-nigerians-battle-unprecedented-hardship-as-buhari-nears-7-years-in-office.html>

²⁸ F. Stewart, and V. Fitzgerald, *War and Underdevelopment: The Economic And Social Consequences Of Conflict* (Oxford University Press 2001) 23.

²⁹ T.E. Olagunju and others 'Climate Change Impacts on Environment: Human Displacement and Social Conflicts in Nigeria' (2021) IOP Conf. Ser.: Earth Environ. Sci. 655 012072

³⁰ Emphasis is mine.

³¹ Section 14 (4)

³² Section 15 (2)

³³ Section 16 (1) (a)

³⁴ Section 17 (1)

³⁵ Section 17 (2) (a)

maintained and enhanced;³⁶ and all governmental actions shall be humane.³⁷ In addition, unless it is geared towards the good of the community, the Constitution prohibits the exploitation of human or natural resources in any form.³⁸ In putting people at the centre of fundamental state development objectives, the Constitution particularly echoes the protection of human rights in certain aspects including an equal opportunity for securing adequate means of livelihood as well as adequate opportunity to secure suitable employment;³⁹ the safeguard of the health, security and welfare of all persons in employment;⁴⁰ and promoting access to adequate medical and health facilities for all persons.⁴¹ Likewise, ensuring that there are equal and adequate educational opportunities at all levels;⁴² and ensuring equal pay for equal work and promoting the evolution of family life.⁴³

Distinctive categories of people such as children,⁴⁴ the elderly, the disabled and the indigent are to receive special protection against neglect, exploitation and abuse. Provision is to be made for social welfare insurance and assistance for those in need.⁴⁵ The Constitution recognises the importance of safeguarding the vulnerable hence suitable and adequate shelter, food, a reasonable national minimum living wage, old age care and pensions, unemployment, sick benefits and welfare of the disabled are to be made available to all citizens.⁴⁶ The State is also enjoined to protect and improve the environment as a nod to environmental sustainability and to safeguard the water, air and land, forest and wildlife of Nigeria.⁴⁷ Although these laudable provisions do not carry legal consequences,⁴⁸ their insertion into the Constitution shows an intention to secure human security and engender the development of Nigerian citizens, albeit a discretionary obligation not compulsory duty to fulfil is attached to these objectives.

Notwithstanding, there are enforceable provisions in the Constitution that could be relied on the compel a duty to human security. The right to life,⁴⁹ for example, is an essential right to existence and also, the right to live a meaningful life. The right to life obligates the protection of human life from threats and harm, and the provision of necessities to maintain one's life and this is closely linked with human security. The Constitution also recognises the right to dignity of

³⁶ Section 17 (2) (b)

³⁷ Section 17 (2) (c)

³⁸ Section 17 (2) (d)

³⁹ Section 17 (3) (a)

⁴⁰ Section 17 (3) (c)

⁴¹ Section 17 (3) (d)

⁴² Section 18.

⁴³ Section 17 (3) (h)

⁴⁴ Section 17 (3) (f)

⁴⁵ Section 17 (3) (g)

⁴⁶ Section 16 (2) (d)

⁴⁷ Section 20

⁴⁸ The provisions are contained in Chapter II of the Constitution which is non-justiciable in court per section 6(6) (c) of the Constitution.

⁴⁹ Section 33

person and to participate fully in society.⁵⁰ Poverty, illiteracy, discrimination, inaccessibility to housing, food, water, health care, violence, chronic threats and crises can limit the enjoyment of a dignified life.

The right to personal liberty, right to privacy, freedom of thought, conscience and religion, freedom of expression, fair hearing, freedom of assembly and association, and freedom of movement will be undermined if human security is not secured. According to UNDP, ‘the world can never be at peace unless people have security in their daily lives.’⁵¹ Several other provisions mandate the state to undertake measures to protect the security of everyone within the jurisdiction of Nigeria, including the establishment of a police force,⁵² armed forces⁵³ and the proclamation of a state of emergency, when it is exigent, to maintain and restore public order, guarantee peace and secure safety in Nigeria.⁵⁴

1.4 The Right to Development

Development is not only central to general human well-being; it is recognised as a human right entitlement in international human rights instruments.⁵⁵ Article 1 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) recognises the rights of everyone to self-determination. This right to self-determination is linked to people’s development thus Article 1 adds that ‘[b]y virtue of that right they freely determine their political status and freely pursue their *economic, social and cultural development*.’⁵⁶ The right to social, economic and cultural development is also articulated in Article 22 (1) of the 1981 African Charter with regards to people’s ‘*freedom and identity and in the equal enjoyment of the common heritage of mankind*.’⁵⁷

⁵⁰ Section 34

⁵¹ United Nations Development Programme, Human Development Report: Annual Report (New York: UNDP, 1994), p. 17.

⁵² Section 214

⁵³ Section 217

⁵⁴ Section 305

⁵⁵ In the 1993 Vienna Declaration and Programme of Action, the right to development is described as ‘[...] a universal and inalienable right and an integral part of fundamental human rights.’

It is worth noting that there are several debates on whether the development should be recognised as an international human right and how to implement the right. For more discourse on the categorisation of the right to development, political debate and objection, and challenges to the realisation of the right, see Stephen P Marks, ‘The Human Right to Development: Between Rhetoric and Reality Obstacles to the Realization of the RTD’ (2004) 17 Harvard Human Rights Journal 137–168.

⁵⁶ Emphasis added. UN General Assembly, International Covenant on Economic, Social and Cultural Rights (16 December 1966, United Nations, Treaty Series, volume 993, 3)

⁵⁷ The Preamble to the African Charter gives special emphasis to the right to development and duty of states thus:

Considering that the enjoyment of rights and freedoms also implies the performance of duties on the part of everyone; convinced that it is henceforth essential to pay a particular attention to the right to development and that civil and political rights cannot be dissociated from economic, social and

Of equal importance is the reaffirmation of the right to development in the Vienna Convention as an integral part of human rights.⁵⁸ The duty of Contracting States with respect to this right to development in the African Charter, which Nigeria has signed and ratified, is to collectively and individually guarantee the exercise of the right to development.⁵⁹

Correspondingly, development as a component of human rights is acknowledged by the United Nations Declaration on the Right to Development (UNDRD).⁶⁰ Article 1 states that:

The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.⁶¹

Although the UNDRD, as a UN resolution, has no binding legal status under international law, the provisions are significant in explaining the importance and obligations to the right to development identified in the above mentioned binding human rights instruments (ICECSR and African Charter) in signatory states.⁶² Moreover, the provisions are persuasive in compelling a duty on states toward their citizen's right to development.⁶³

The UNDRD, in Article 8, expatiates that the State is obliged to undertake all necessary measures for the realisation of the right to development including 'inter alia, equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and the fair distribution of income.'⁶⁴ Consequently, this provision confirms that effective means for development require that the state should undertake the necessary measures to ensure that every individual has access to basic necessities to live a meaningful and dignifying life, including the defence of human life, as a way of enhancing development. This point finds support in UNDRD which states that '[d]evelopment is a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and all individuals on the basis of their active, free and meaningful participation in development and the

cultural rights in their conception as well as universality and that the satisfaction of economic, social and cultural rights is a guarantee for the enjoyment of civil and political rights.

⁵⁸ Articles 10 and 11, Vienna Declaration and Programme of Action.

⁵⁹ Article 22 (1) of the 1981 African Charter.

⁶⁰ Declaration on the Right to Development Adopted by General Assembly Resolution 41/128 of 4 December 1986. Available at

<<http://www.un.org/documents/ga/res/41/a41r128.htm>> accessed 12 August 2014.

⁶¹ *ibid*

⁶² Office of the High Commissioner for Human Rights, *Frequently Asked Questions on the Right to Development: Fact Sheet No. 37* (United Nations 2016) 5.

⁶³ *ibid* 5.

⁶⁴ Article 8

fair distribution of benefits resulting therefrom.’⁶⁵ Moreover, and just as importantly, Article 8 of the Declaration specifically spells out a woman’s right to development and places a duty on the State to effectively ensure that every woman has an active role in the development process.⁶⁶

1.5 Safeguarding Human Security and Guaranteeing Development in Nigeria

The articulation of development as a human right is significant in enriching the argument for proactive intervention to secure human security in Nigeria. Since all human rights are universal, interrelated, interdependent, and indivisible as stated in Paragraph 5 of the Vienna Declaration and Programme of Action,⁶⁷ it can be said that the right to human security and the right to development are related and both rights underlie a similar objective.⁶⁸ This common objective is to promote the improvement of quality of life, create opportunities and enhance everyone’s standard of living, and secure lives, including psychological and emotional security, as a matter of right. The UDHR which recognises that the peoples of the United Nations have reaffirmed ‘[...] the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,’ supports this argument.⁶⁹

Human right mandates the state to guarantee, safeguard, respect, and enforce the protection of the people. To protect human rights means to ensure that security threats by others are curtailed (e.g organized/petty crime, terrorism/banditry, communal clashes, environmental degradation, corruption, inequality etc). To respect human rights means not to violate them.⁷⁰ When a state fails in its duty to defend the lives of the people, it is in breach of its human rights duty. To fulfil rights means to implement positive measures to ensure that everyone enjoys their human rights.⁷¹

For this reason, the right to development, like the right to human security, requires State Parties to strive to improve their people’s human welfare, provide the resources and create the necessary enabling environments for development.⁷² Given that security is linked to a person’s development

⁶⁵ See The Preamble and Article 8 of UNDRD

⁶⁶ Consequently, ‘[a]ppropriate economic and social reforms should be carried out with a view to eradicating all social injustices.’ Article 8 of UNDRD.

⁶⁷ The paragraph provides that

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.

⁶⁸ Office of the High Commissioner for Human Rights (n 62) 2.

⁶⁹ See Preamble to the UDHR.

⁷⁰ Rhoda E. Howard-Hassmann ‘Human Security: Undermining Human Rights?’ (2012) (24) *Human Rights Quarterly* 88–112

⁷¹ Ibid

⁷² Office of the High Commissioner for Human Rights, (n 62) 10.

prospects,⁷³ it can be argued that the right to development would require the state to take all feasible measures to guarantee access to the important resources, facilities, services, and legal recourse (for violation of the rights) and justice to achieve the full realisation of the right. A starting point for guaranteeing access to legal remedies is to make the specific provisions of the Constitution that pertain to human security and development justiciable. Notwithstanding this, the state should respect, protect and fulfil its duty to safeguard lives, enhance dignity and secure all the fundamental rights in the Constitution. Furthermore, the reflection that the right to development includes the right of individuals to have access to basic resources, as well as equal development opportunities would entail the removal of obstacles to achieving this development objective. This important duty of the state to eliminate obstacles to development is emphasised in Article 3(1) of the UNDRD. It goes without saying that there are pressing challenges to human security that limit the ability of people to enjoy the right to development.

The recognition of development and human security as human rights in the African Charter is significant to the arguments in this paper. Accordingly, Nigeria, having ratified and incorporated the African Charter,⁷⁴ is bound by its treaty obligation to fulfil, respect and promote human security and the right of every Nigerian to be developed.⁷⁵ The decision of the African Commission on Human and People's rights in the case of *Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v. Kenya* (Endorois case) is illustrative of the duty of states to the right to development. In this case, the African Commission found that the state (Kenya) has a duty to create conditions favourable to the people's development.⁷⁶ In 1973 and 1978, the Kenyan government dispossessed the Endorois Community of their lands to create Lake Hannington Game Reserve and Lake Bogoria Game Reserve.⁷⁷ The

⁷³ Olasupo Ayodeji Owoye, 'Patents for Drugs and the Right to Development in International Law' (2015) (8)(1) *Law and Development Review* 82, 93.

⁷⁴ The Nigerian National Assembly in March 1983 formally incorporated the African Charter (Ratification and Enforcement) Act into the domestic laws of Nigeria. Interestingly, Article 16 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act Chapter A9 provides that 'Every individual shall have the right to enjoy the best attainable state of physical and mental health' thus it can be argued that the right to health is a part of the laws of Nigeria. See the case of *Media Rights Agenda & Others v Nigeria* (2000) AHRLR 200 (ACHPR 1998); *Social and Economic Rights Action Centre (SERAC) and another v Nigeria* (2001) Communication No 155/96 African Commission on Human and Rights (ACHPR); *Gbemre v Shell Petroleum Development Company Nigeria Limited and Others* (2005) AHRLR 151 (NgHC 2005); and *Socio-Economic Rights and Accountability Project (SERAP) v. Federal Republic of Nigeria and Universal Basic Education Commission* (2012) No. ECW/CCJ/APP/0808,

⁷⁵ In *Rights International v. Nigeria*, the African Commission On Human and Peoples' Rights, found the Nigerian government liable for the violation of the applicant's right to human security as contained in the African Charter. Decision, Comm. 215/98 (ACmHPR, Nov. 15, 1999)

⁷⁶ *Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v Kenya* (2010) 276/2003, African Commission on Human and Peoples' Rights, paragraph 298.

⁷⁷ *ibid* paragraph 1-12.

Endorois community, an indigenous people, alleged that the government violated their rights to development as contained in the African Charter by forcibly removing them from their ancestral home, failing to compensate them for the loss of their properties, not involving them in the decision-making in the development process and the disregard for their well-being and continued development.⁷⁸ The Endorois people also argued that the eviction from the game reserve limited the choices and capabilities open to them and affected their livelihoods as their cattle died from lack of access to the lake, usual pastures and salt licks.⁷⁹ The African Commission, making reference to the right to development in the African Charter, took the view that the dispossession and disruption of the community's pastoral enterprise was a violation of their human rights to development, contrary to Article 22 of the African Charter.⁸⁰ According to the Commission on the state's duty, '[t]he result of development should be empowerment of the Endorois community. [...] The capabilities and choices of the Endorois must improve in order for the right to development to be realised.'⁸¹ This case is significantly an example of the nature of the duty that states are expected to adhere to or refrain from to realise the right to development and in turn, enrich human security.

The UNDRD further directs states to create favourable international and national conditions for the realisation of the right to development.⁸² The duty to realise the right to development also requires that the state formulates appropriate national development policies aimed at constantly improving the well-being of the entire population and every individual, including the promotion of its citizens' freedom to participate meaningfully in development processes and 'the fair distribution of the benefits resulting therefrom.'⁸³ It stands to reason that the right to development also recognises the rights of individuals to legitimately pursue their developmental goals without fear of unwarranted attacks on their lives and properties.

Civil society and non-state actors can also play a vital role in promoting the right to development and human security. Article 2(2) of the UNDRD places the responsibility for development on all human beings to 'promote and protect an appropriate political, social and economic order for development.' This responsibility is individually and collectively shared by every person and every organ of society, including civil society and private actors.⁸⁴ As the United Nations Office of the High Commissioner for Human Rights, elaborates, businesses and corporations also have a responsibility to respect the right to development in accordance with their human rights obligations

⁷⁸ *ibid*

⁷⁹ *ibid* paragraph 126.

⁸⁰ *ibid* paragraph 297-298.

⁸¹ *ibid* paragraph 283.

⁸² Article 3(1) of UNDRD.

⁸³ Preamble, Articles 1 and 2(2) of UNDRD.

⁸⁴ Office of the High Commissioner for Human Rights (n 62) 4.

in the Guiding Principles on Business and Human Rights.⁸⁵ Accordingly, non-state actors, namely, the private sector and individuals, can also contribute to the realisation of the right to development and human security by creating favourable conditions for the enjoyment of the rights.⁸⁶

1.6 Conclusion

The right to human security and the right to development requires the state to undertake both positive and negative obligations to protect, fulfil and prevent the right to human security. The state is required to provide reasonable and appropriate means to secure the people from pervasive threats to their wellbeing, safety, freedoms, rights and ultimately, their lives. It is also the responsibility of states to undertake all actions towards monitoring, investigating and punishing all actions that expressly or implicitly violate the people's human security⁸⁷ such as terrorism, banditry, kidnapping and other acts of violence. To address the growing challenges of physical and environmental security, the state is obliged to put in place legal frameworks, a functional judicial system and adequate defence and security apparatus to ensure the protection of everyone within its territory and the punishment of violators.⁸⁸ In *Social and Economic Rights Action Centre and the Centre for Economic and Social Rights v Nigeria*,⁸⁹ The African Commission held that 'Governments have a duty to protect their citizens, not only through appropriate legislation and effective enforcement but also by protecting them from damaging acts that may be perpetrated by private parties [...]'

Protecting physical security is only the starting point. The improvement of social-economic rights including social security, economic/income stability, adequate availability and access to nutritious food, clean water, sanitary and safe environment will enhance human security and propel development. In the same vein, guaranteeing access to quality healthcare services, facilities and treatment, and eliminating discrimination on all fronts including ethnic affiliation, gender and status will advance the right to human security.⁹⁰ Guaranteeing these will boost the ability of the people to pursue development objectives and enjoy the fruits of such development in a safe environment.

⁸⁵ *ibid*

⁸⁶ *ibid* 4-5.

⁸⁷ Gentil Kasongo Safari 'State Responsibility and the Right to Personal Security in the DRC: A Human Rights Law Perspective' (2014) *African Journal of Legal Studies*

⁸⁸ *ibid*

⁸⁹ African Commission, Communication No 155/96 (2001) ('serac Case') para. 57, available online at:

<http://www1.umn.edu/humanrts/africa/comcases/155-96.html>

⁹⁰ The opinion of the Inter-American Court in *Velásquez Rodríguez v Honduras*, Judgment of 29 July 1988, Inter-Am Ct hr (Ser C) No 4 (1988) is worth noting on fact of having an appropriate legal framework is one of the ways for a State to comply with its human rights obligations. The Inter-American Court held: "[t]he obligation to ensure the free and full exercise of human rights is not fulfilled by the existence of a legal system designed to make it possible to comply with this obligation. It also requires the government to conduct itself to effectively ensure the free and full exercise of human rights."¹⁷