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RESEARCH ARTICLE

VIOLETION OF THE RULE OF LAW AND ABUSE OF PUBLIC AUTHORITY: AS FACTORS PROCURING THE BREACH OF THE RIGHT TO LIFE

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Abstract

This study evaluates how the fundamental right to life is violated by agents of the state, who perpetrate corrupt practices that lead to a violation of the fundamental right to life, specifically in the context of violation of the rule of law and abuse of Public Authority. Thus, this research conducts an analyses aimed at establishing the fact that – abuse of public authority and the violation of the rule of law, are mutually reinforcing practices/vices that in specific circumstances, can lead to the violation of the right to life. Especially when nefarious and abusive public officials or law enforcement officers act contrary to their constitutionally defined scope of authority, or antithetically to their legitimate functions as agents of the state. In verifying the inviolability of the right to life, references are made to guarantees, inter-alia, under the International Covenant on Civil and Political Rights (ICCPR). References are also made to the role of the Administration of Criminal Justice Act (ACJA) as a tool for enhancing accountability, and for discouraging abuse of public authority. Irrespective of legal guarantees, the blatant violation of the right to life is still a dark reality, especially in countries dealing with systemic corruption. Thus recommendations are made concerning proactive measures including improved surveillance, due-diligence, monitoring and regulatory requirements; and the implementation of anti-corruption and criminal laws proscribing abuse of public authority.

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Introduction:-

Life is the most fundamental right, which is foundational to human existence, and the exercise of all human rights. Life is the basic human capital, through which all kinds of human endeavor are progressively achieved. Only a living human being can possess and exercise human rights. Thus, the International Covenant on Civil and Political Rights (ICCPR) guarantees the inviolability of the inherent right to life, under the protection of law.¹As stated in

¹ Article 6(1.) of the International Covenant on Civil and Political Rights

Adopted and opened for signature, ratification and accession by General Assembly resolution 2200 A (XXI) of 16 December 1966

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Article 4 of the ICCPR, no derogation of the right to life is permitted, regardless of the exigencies of the situation, even in times of public emergency.² Thus, as a general rule, the right to life is an inviolable human right. Save in exceptional circumstances, for example as a consequence of the verdict of a court of competent jurisdiction, for countries that have not ratified the Covenant aimed at the abolition of the death penalty,³ and without prejudice to the right to fair trial.⁴ The right to life is also guaranteed by section 33 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), and Article 4 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act.⁵ However, regardless of the laws guaranteeing the right to life, there are countless instances where persons have lost their lives, based on arbitrary acts of abuse of public authority, and blatant violations of the law, as a consequence of institutionalized corrupt practices. So it is worth considering what legal, administrative, or regulatory measures can be put in place for the protection of the fundamental right to life.

Violation of the Rule of Law as a Sine-qua-non to Abuse of Public Authority

Although, the proliferation of conceptualizations of the rule of law has created definitional uncertainty, there are pointers which create a kaleidoscopic picture that can be applied in identifying the essence, and the features of the rule of law.⁶ The rule of law has, inter-alia, been recognized as –

- (1.) A source of legitimation for political power.⁷
- (2.) A universal principle of law, and a necessity for protecting the interest of citizens and the state.⁸
- (3.) The foundational principle of democratic governance, and the normative framework for guaranteeing human dignity, for regulating the exercise of public authority, and for creating the necessary institutional conditions required for achieving the aspirations of the state.⁹
- (4.) The consequence of the exercise of legitimate or symbolic power, as embodied in statutory law.¹⁰
- (5.) A normative framework for preventing the abuse of public authority and totalitarianism;¹¹
- (6.) A mechanism for ensuring justice, fairness, and equality before the law.¹²
- (7.) A body of rules that are enforced by the institutions of the state.¹³
- (8.) Legal principles, which are judicially interpreted, with the aim of actualizing justice.¹⁴
- (9.) The dictates of the law.¹⁵
- (10.) An institutionalized legal system that ensures governance according to the law, as opposed to the dictates of men.¹⁶

Article 3 of the Universal Declaration of Human Rights

Adopted and proclaimed by General Assembly resolution 217 A (III) of 10 December 1948

² Article 6(2) of the ICCPR

³ Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty

Adopted and proclaimed by General Assembly resolution 44/128 of 15 December 1989

⁴ Article 6(2) of the ICCPR

⁵ Chapter A9 (Chapter 10 LFN 1990) (No 2 of 1983) Laws of the Federation of Nigeria 1990

⁶ A Mora, Rule of Law [2020] eds. Antonio De Lauri, 'Humanitarianism: Keywords'

<<https://www.jstor.org/stable/10.1163/j.ctv2gjwvwnw.90>> accessed 16 May 2025

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⁷ ibid

⁸ A Mora, Rule of Law [2020] eds. Antonio De Lauri, 'Humanitarianism: Keywords'

<<https://www.jstor.org/stable/10.1163/j.ctv2gjwvwnw.90>> accessed 16 May 2025

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⁹ ibid

¹⁰ LMara, 'The Modern State and the Primitive Accumulation of Symbolic Power' [2005] Vol. 110 (6) *American Journal of Sociology* 1652

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¹¹ J Dobbins, SG Jones, K Crane and BC DeGrasse, Rule of Law: the Beginner's Guide to Nation-Building

<<https://www.jstor.org/stable/10.7249/mg557srf.13>> accessed 16 May 2025 73

¹² ibid

¹³ International Crisis Group, Rule of Law. Chechnya: The Inner Abroad [2015] Crisis Group Europe Report N°236 <<https://www.jstor.org/stable/resrep31732.9>> Accessed on 16th May, 2025 28

¹⁴ 'n 13' 31

¹⁵ 'n 13' 34

(10.) Rules designed to protect the rights and liberties of the human person.¹⁷

The rule of law is an order-centric principle. According to the Secretary General of the United Nations, “the rule of law is like the law of gravity. It is the rule of law that ensures that our world and society remains together and that order prevails over chaos.”¹⁸ Thus, the rule of law connotes inviolable standards, and a doctrinal scope of rigidity, which confines the actions of the agents of the state to defined boundaries of legitimacy, aimed at curtailing and checkmating abuses of authority, and the boundless exercise of executive, judicial, and legislative discretion – in order to avoid tyranny, totalitarianism and destructive acts by public authorities. Therefore, the rule of law is centered on the principles designed to “unite us around common values and anchors us in the common good.”¹⁹ So what are these principles?

The UN Secretary General explains that in contrast to the law of gravity, the rule of law is not an unsolicited force of nature, it is rather a progressive product of the efforts of government to continuously improve the law.²⁰ Based on that account, the rule of law is a principle as well as a process that is centered on the reoccurring jurisprudential question of: what is just? And how can justice be achieved? A question that is to be answered on a normative level, as well as on a practical/empirical level suited to the circumstances of each case. That is why R McCorquodale, considers the rule of law to be a doctrinal aspiration that is incrementally achieved as the legal system improves and develops.²¹

To a certain degree, although the rule of law is normatively rigid, the process of its implementation as a vector of positive change and justice: for guaranteeing the common good of society, is what makes it empirically progress oriented. So, the rule of law is founded on the:

- (1.) Supremacy of the law over government power;
- (2.) The constitutional authority of the law, as a qualification standard for determining the legitimacy of actions of the executives, legislative, and judicial arms of the state;
- (3.) Equality before the law; and
- (4.) The enforceability/justiciability of the law before the courts.²²

On that account it is suggestible that corruption and abuse of public authority is the antithesis of the rule of law – because, while the rule of law is centered on actualizing justice, corruption is inextricably connected to injustice, and the violation of all core principles of the rule of law. Abuse of power or the abuse of public authority, is an intentional act of a public official or agent of the state that violates the rule of law, and is aimed at perpetrating public sector corruption, or acts of breach of public trust.²³ Thus, the abuse of public authority, corrupt practices, and the violation of the rule of law, are mutually reinforcing vices.

Using Nigeria as an example: From Nigeria’s independence till date, the pervasiveness of corruption in the country’s public sector has had a negative impact on the rule of law. Abuse of public authority has been a problem bedeviling the country since the First Republic, by virtue of corrupt, and abusive acts perpetrated by public officials/officers.²⁴ For example during the tenure of General Sani Abacha, the rule of law was severely undermined by the military dictatorship. The regime enacted Decree No. 12, of 1994, which neutralized the nations system of

¹⁶ J Dobbins, SG Jones, K Crane and BC DeGrasse, Rule of Law: the Beginner’s Guide to Nation-Building <<https://www.jstor.org/stable/10.7249/mg557srf.13>>accessed 16 May 2025 73

¹⁷ ibid

¹⁸ Secretary-General of the United Nations (UN), UN General Assembly, 67th Session, Agenda Item 83, High-Level Meeting on the Rule of Law at National and International Levels, UN Doc A/67/PV.3 at 2

¹⁹ See Secretary-General of the United Nations (UN), UN General Assembly, 67th Session, Agenda Item 83, High-Level Meeting on the Rule of Law at National and International Levels, UN Doc A/67/PV.3 at 2

²⁰ ibid

²¹ R McCorquodale, ‘Defining the International Rule of Law: Defying Gravity’ [2016] 65(2) The International and Comparative Law Quarterly 277

²² A Dicey, ‘An Introduction to Study of the Law of the Constitution’ (Macmillan 1885) Pt II

R McCorquodale, ‘Defining the International Rule of Law: Defying Gravity’ [2016] 65(2) The International and Comparative Law Quarterly 278, 279

²³ SW Cooper, Abuse of Police Powers [1890] 150 (402) *The North American Review* 659

Z Pearson, ‘An International Human Rights approach to Corruption’ in P. Larmour and N. Wolanin (eds), *Corruption and Anti-Corruption* (ANU Press 2013) 33

²⁴ DE Agbibo, ‘Between Corruption and Development: The Political Economy of State Robbery in Nigeria’ [2012] Vol. 108(3) *Journal of Business Ethics* 331

checks and balances, specifically the jurisdiction of courts to question the actions of the military regime.²⁵ Thus, compromising the optimal functionality of the state, as an institution capable of guaranteeing the rights and liberties of the citizenry.²⁶

How Corruption Sabotages the Fiduciary Responsibility of Good Governance, and the State's Duty to Protect Human Rights

According to social contract theorists the functions of government are centered on the protection of rights.²⁷ Hugo Grotius, St. Augustine, Rene Descartes, among others, have emphasized on the state's duty to uphold natural justice – through the proper organization of the society, in-line with the rule of law for protecting the interests of the people.²⁸ On that account, public authority is conditionally granted to the agents of the state, on the basis of public trust, solely for the execution of fiduciary responsibilities for the benefit of the public.²⁹ Nevertheless, there are countless instances where state actors have failed to uphold public trust, even to the extent of sanctioning acts of violence against innocent citizens.

Max Weber conceptualizes the state as a military, political, and economic accomplishment that claims the monopoly of the legitimate use of physical force within its territory.³⁰ In the same line of thought Gorski recognizes that states are not only administrative, policing and military organizations, they are also pedagogical, and corrective organizations.³¹ However, it is problematic when public authorities manipulate, instrumentalize, or utilize their symbolic power, for the purpose of executing nefarious, or unethical objectives, especially in systemically corrupt regimes.³² That is a problematic trend occurring in various parts of the world, which has led to countless human rights violations, inter-alia, through extra-judicial executions that violate the right to life. For instance in *Suleymane v Senegal*,³³ it was reported that 40,000 political murders and systemic acts of torture were committed by the Habre' regime;³⁴ and in *Al Jilani v Libya*,³⁵ it was reported that at least 1,000 prisoners were killed in prison by the Libyan Security Services, who never published the list of the victims, in 1996.³⁶

The System for Record Keeping and Reports, under the Administration of Criminal Justice Act (ACJA) – as a tool for enhancing Accountability, Transparency, and for Discouraging Abuse of Public Authority

The Administration of Criminal Justice Act, 2015 (ACJA) provides for the establishment of a Central Criminal Records Registry, which shall receive and keep information transmitted from the Criminal Records Registry of every state police command, containing all criminal judgments within 30 days of the final verdict.³⁷ The duty to

²⁵ibid

²⁶ibid

²⁷ RG David, 'Contributions to the History of the Social ContractTheory' [1891] 6(4) *Political Science Quarterly* 656

²⁸ R William, 'Hugo Grotius' [1905] 6(1) *Journal of the Society of Comparative Legislation* 73

RG David, 'Contributions to the History of the Social ContractTheory' [1891] 6(4) *Political Science Quarterly* 676, 680

P Frederick, 'Hobbes and Locke: The Social Contract in English PoliticalPhilosophy' [1908] Vol. 9(1) *Journal of the Society of Comparative Legislation* 107

²⁹ R Hughes, 'Corruption' in A. Jowitt and T. N. Cain (eds), *Passage of Change: Law, Society and Governance in the Pacific* (ANU Press 2010) 40

³⁰LMara, 'The Modern State and the Primitive Accumulation of Symbolic Power' [2005] Vol. 110(6) *American Journal of Sociology* 1651

³¹ibid

³²The distinctive feature of systemic corruption is that it is institutionalized and deep-rooted in the administrative system, 'perhaps accepted, but not necessarily approved.'

S Asongu, 'Fighting Corruption in Africa: Do Existing Corruption-Control Levels Matter?' [2013] Vol. 21(1) *International Journal of Development* 39

JM Mbaku, 'International Law and the Fight against Bureaucratic Corruption in Africa' [2016] Vol. 33(3) *Arizona Journal of International and Comparative Law* 665

³³ CAT/C/36/D/181/2001

³⁴'n 33' para 2.1

³⁵ CCPR/C/111/D/1882/2009

³⁶'n 35' para 2.6

³⁷ Section 16 of the Administration of Criminal Justice Act, 2015 (ACJA)

transmit records to the Central Criminal Records Registry, is vested on the State or Federal Capital Territory (FCT) Police Command.³⁸ The Inspector-General of Police and the head of every agency authorized to execute arrests, are obliged to make mandatory quarterly reports of arrests to the Attorney General of the State for state offences, and to the Attorney General of the Federation for federal offences.³⁹ The Act further obliges the Attorney General of the Federation to establish an electronic and manual database of all records of arrests at the Federal and State level.⁴⁰ Magistrates, on receipt of monthly reports from police stations, containing details of arrests – shall forward them to the Criminal Justice Monitoring Committee which shall analyse the reports and advise the Attorney-General of the Federation as to the trends of arrests, bail and related matters.⁴¹

All criminal courts are obliged to make quarterly returns of the particulars of all cases, including charges, remands and other proceedings commenced and dealt with by the court within the quarter, to the Chief Judge.⁴² The Administration of Criminal Justice Monitoring Committee, is also authorized to consider all returns made to the Chief Judge, and the National Human Rights Commission set up under the National Human Rights Commission Act shall have access to the returns.⁴³

The Comptroller-General of Prisons is obliged by the ACJA to make returns every 90 days to the Chief Judge of the Federal High Court, Chief Judge of the Federal Capital Territory, the President of the National Industrial Court, the Chief Judge of the State in which the prison is situated and to the Attorney-General of the Federation, a list of persons held in prison facilities for a period exceeding 180 days counting from the date of their arraignment, and also a list of all persons awaiting trial.⁴⁴ The form shall contain names, passport photographs, and particulars of the charges, date of remand or arraignment, and other relevant data.⁴⁵ Judges and Magistrates are also obliged to visit police stations and detention centers on a monthly basis, in order to inspect records of arrest, order arraignments, or grant bail if justified by the circumstances of the case.⁴⁶ The Act also provides that any officer who fails to provide the Judge or Magistrate with necessary records required to execute the aforementioned obligations, will be guilty of misconduct and subject to disciplinary actions.⁴⁷

Robert notes that lack of transparency and poor accountability are vectors of corruption and acts of abuse of public authority.⁴⁸ Thus, the report and record keeping systems established under the ACJA are key for ensuring transparency, as well as regulatory prudence through the prescription of periodic visitations by Judges and magistrates to police stations and detention facilities. Such measures can possibly aid the release of potential victims of abusive acts of corrupt officers. Proper documentation and transmission of records will also aid the prevention of enforced disappearances and summary executions of detainees whose details have not been recorded in the official registry, a situation that might embolden officers to act with impunity. However, a major problem is the issue of the weak systemic culture of poor enforcement or lack of implementation, as noted by Ugbe et al, the law is not necessarily the problem, the problem is the reluctance of major state actors like the Police and judges to implement the provisions of the Act.⁴⁹

Measures prescribed by the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (DPJCA) to curb Abuse of Public Authority

In order to prevent abuses of public authority, Article 1 of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (DPJCA),⁵⁰ recognizes the duty of the legislature to enact laws proscribing criminal abuse of power. Article 2 of the DPJCA extends the scope of victims of abuse of power where appropriate to include the immediate family members, as well as dependants of the victim, and persons who have been harmed as a

³⁸ibid

³⁹ Section 29 of the ACJA

⁴⁰ibid

⁴¹ Section 33 of the ACJA

⁴² Section 110 of the ACJA

⁴³ibid

⁴⁴ Section 111 of the Administration of Criminal Justice Act, 2015 (ACJA)

⁴⁵ibid

⁴⁶ibid

⁴⁷ Section 34 of the Administration of Criminal Justice Act, 2015 (ACJA)

⁴⁸ EK Robert, *Controlling Corruption* (1sted. Berkeley: University of California Press 1988) 75

⁴⁹See RO Ugbe, AA Agi and JB Ugbe, A Critique of the Nigerian Administration of Criminal Justice Act 2015 and Challenges in the Implementation of the Act [2019]

<<https://www.researchgate.net/publication/341313899>> Accessed on 17th May, 2025 80

⁵⁰ Adopted by General Assembly resolution 40/34 of 29 November 1985

consequence of their efforts to protect, help or assist the victim.⁵¹ The Declaration emphasizes on the respect for human dignity, access to the mechanisms of justice and to prompt redress, as provided for by national legislation, for the harms suffered;⁵² the strengthening of judicial and administrative mechanisms for fair, accessible, affordable, and expeditious remedy, through formal and informal procedures designed to aid the victims of abuse of authority;⁵³ that victims should be informed of their right to seek redress through mechanisms provided by the state.⁵⁴ Article 21 of the Declaration provides a broad conceptualization of “victims”, thus providing protection for persons subjected to physical harm, emotional suffering, economic loss, mental injury, and other atrocities or significant impairments of human rights and liberties.⁵⁵ Thus, appealing to state to implement the necessary legal, administrative, and legislative measures to curb all forms of abuses of public authority proscribed by the Declaration.⁵⁶

Cases involving the violation of the right to life

The case of *Basilio Laureano Atachahua v Peru*⁵⁷ involved the enforced disappearance of a lady who was last seen in 1992. The Human Rights Committee noted that the victim was previously arrested and detained by the Peruvian military, and her life was threatened by a captain of the military base at Amber, who in fact, eventually confirmed to Ms. Laureano’s grandmother that Ana R. Celis Laureano had been killed.⁵⁸ The downhill trajectory of the victim’s experience began in March 1992, when she was abducted by unknown armed men, presumably guerrillas of the Shining Path movement (*Sendero Luminoso*), who threatened to kill her if she refused to join them. Thus, she was involved with the guerrillas⁵⁹ until she eventually escaped.⁶⁰ Although she was not a voluntary participant in the activities of the militia – on 23 June 1992, Ana R. Celis Laureano was abducted, and detained by the military on the ground of suspected collaboration with the Shining Path Movement.⁶¹ Consequently, she was held incommunicado at the military base in Amber.⁶²

On 5 August, a judge in the civil court of Huacho ordered her release on the ground that she was a minor.⁶³ Irrespective of the subsisting court order, on 13 August 1992, for the second time, at approximately 1 a.m., Ms. Laureano was abducted, allegedly by agents of the state – ‘the military and/or special police forces.’⁶⁴ All attempts to access her, inter-alia, through habeas corpus, inquires through a local human rights group to the military and police authorities, petitioning the National Minister of Defence in 1992, and the registration of the case before the United Nations Working Group on Enforced Involuntary Disappearances, in 1992, were all inconclusive.⁶⁵ Judging from the facts of the case – the Human Rights Committee, acting under the Optional Protocol to the International Covenant on Civil and Political Rights, inter-alia, found the violation of articles 6 of the Covenant (the right to life).⁶⁶ As alleged in this case, enforced disappearances, which lead to extra-judicial executions are nefarious practices that violate the fundamental right to life.

In the case of *Hugo Gilmet Dermitt v Uruguay*,⁶⁷ Hugo Dermitt who appeared to be a political prisoner died in detention in Uruguay between 24 and 28 December 1980.⁶⁸ He was arrested in 1972, tried by the military court, and given an eight year sentence, which lasted till July 1980. Nonetheless, after the expiration of the sentence in 1980, he was not released – Instead, he was informed that “he would be released only if he left the country, a condition

⁵¹ Article 2 of the DPJCA

⁵² Article 4 ‘n 51’

⁵³ Article 5 ‘n 51’

⁵⁴ Article 5 ‘n 51’

⁵⁵ Article 18 ‘n 51’

⁵⁶ See Article 18 of the DPJCA

⁵⁷ CCPR/C/56/D/540/1993

⁵⁸ *Basilio Laureano Atachahua v Peru* CCPR/C/56/D/540/1993 para 8.4

⁵⁹ Shining Path movement (*Sendero Luminoso*)

⁶⁰ ‘n 58’ para 2.1

⁶¹ *ibid*

⁶² *ibid*

⁶³ ‘n 58’ para 2.3

⁶⁴ ‘n 58’ para 2.5

⁶⁵ ‘n 58’ paras 2.5, 2.6, 2.8, and 2.13

⁶⁶ ‘n 58’ para 9

⁶⁷ Communication No. 84/1981

⁶⁸ *Hugo Gilmet Dermitt v Uruguay* Communication No. 84/1981 para 1.4

which, according to the author, was not mentioned in the judgment, nor was it based on any rule of law.”⁶⁹ However, after he notified the authorities of his intention to migrate, owing to an entry visa which he obtained from the Swedish Government – in September 1980, Hugo Dermitt was transferred from the Libertad prison department of San Jose to the barracks of the Fourth Mechanized Cavalry Regiment situated in Montevideo.⁷⁰ Surprisingly, on 9 December 1980, the police authorities made it known that he would not be granted permission to leave the country.⁷¹ In addition to the fact that his request to migrate to Sweden was declined by the state; his location was unknown to his relatives until 28 December 1980, when they identified his body.⁷² Thus, the demise of Hugo Dermitt was confirmed by a death certificate, which reported the cause of death as “acute haemorrhage resulting from a cut of the carotid artery.”⁷³ However, it is alleged that his death was a consequence of torture.⁷⁴ Consequently, the Human Rights Committee found that the failure of Uruguayan authorities, to adequately protect the life of Hugo Haroldo Dermitt Barbato, while in custody, amounts to a violation of Article 6 of the ICCPR.⁷⁵ Thus, it was held that appropriate compensation should be paid to the victim’s family, and that the state should ensure the prosecution of the perpetrators of the crime.⁷⁶

*Kanta Baboeram-Adhin et al v Suriname*⁷⁷, involved the arrest of a number of persons including John Baboeram, whose corpse along with 14 other persons was identified on 10 December 1982, as described in report made by the Dutch Lawyers Committee for Human Rights.⁷⁸ The corpse of John Khemraadi Baboeram, a Surinamese lawyer who was allegedly arrested by Surinamese military authorities on 8 December 1982, was delivered to the mortuary on 9 December 1982, showing signs of severe maltreatment and numerous bullet wounds. The persons arrested and allegedly killed were four journalists, four lawyers, amongst whom was the Dean of the Bar Association, two professors, two businessmen, two army officers and one trade union leader. The executions are said to have taken place at Fort Zeelandia.⁷⁹ Neither autopsies nor official investigations of the killings have taken place.⁸⁰ Reports from various sources corroborated the claim that the military was involved in the killings, and the case was not investigated nor settled due to the alleged involvement of the “highest military and civilian authorities [...] in planning and carrying out the murders.”⁸¹

In the case of *Herrera Rubio v Colombia*⁸², the author submitted the communication on his own behalf and in respect of his deceased parents, Jose Joaquin Herrera and Emma Rubio de Herrera, who were abducted on 27 March 1981, at 3 a.m, by uniformed officers.⁸³ Consequently, he reported the enforced disappearance of his parents to the Tribunal of Doncello, nonetheless he was subsequently called by the authorities of Doncello to identify the bodies of his deceased parents.⁸⁴ His father’s body was “decapitated and his hands tied with a rope.”⁸⁵ All domestic remedies were ineffective, and there was no response to letters sent to the President of Colombia, to the Office of the Attorney-General and to the military authorities who abducted the victims.⁸⁶ Thus, the State party was held liable for failing to take appropriate measures to prevent the disappearance and subsequent killings of Jose Herrera and Emma

⁶⁹ *Hugo Gilmet Dermitt v Uruguay* Communication No. 84/1981 para 1.4

⁷⁰ *Hugo Gilmet Dermitt v Uruguay* Communication No. 84/1981 para 1.4

⁷¹ *ibid*

⁷² *ibid*

⁷³ *Ibid*

⁷⁴ ‘n 70’ para 1.4

⁷⁵ ‘n 70’ para 10

⁷⁶ *ibid*

⁷⁷ Communications Nos. 146/1983 and 148 to 154/1983

⁷⁸ *Kanta Baboeram-Adhin et al v Suriname* Communications Nos. 146/1983 and 148 to 154/1983 para 1.2

⁷⁹ ‘n 78’ para 3.1

⁸⁰ ‘n 78’ para 6.3

⁸¹ See *Kanta Baboeram-Adhin et al v Suriname* Communications Nos. 146/1983 and 148 to 154/1983 paras 2.2 and 6.6

⁸² Communication No. 161/1983

⁸³ *Herrera Rubio v Colombia* Communication No. 161/1983 para 1.5

⁸⁴ *ibid*

⁸⁵ *ibid*

⁸⁶ *Herrera Rubio v Colombia* Communication No. 161/1983 para 1.6

Rubio de Herrera.⁸⁷ The Constitutionality guaranteed inviolability of right to life, is also confirmed by the court in the case of Ndubuisi v. State.⁸⁸

In the case of *Mrs. G. T. v Australia*,⁸⁹ the author claimed that her husband's deportation to Malaysia would violate his right of life. He was convicted in Australia for importing around 240 grams of heroin from Malaysia into Australia in 1992, and was sentenced to six years imprisonment.⁹⁰ While in custody, on 15 June 1993, he made an application for refugee status, which was rejected on 10 August 1993.⁹¹ A subsequent application for review was similarly refused by the Refugee Tribunal on 6 July 1994. On 25 October 1995, while on parole, he applied for a protection visa, under section 417 of the Migration Act, which was also refused.⁹² However, the contentious issue is the question – if extradited to Malaysia, will he be charged there again under the Dangerous Drugs Act? Section 39(b) of which provides for mandatory death penalty for trafficking drugs.⁹³ Therefore if there is a genuine or concrete chance of execution of the death penalty, in-line with the facts of the case, the deportation would be deemed a violation of the State's obligation to protect the life of T., in-line with article 6 of the ICCPR, and the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.⁹⁴

Making references to other violations of the right to life, for example in Sierra Leone, twelve (12) citizens were executed by firing squad, as a consequence of the states blatant refusal to respect an order for stay of execution, during the pendency of a joint communication procedure, appealing against the death sentences;⁹⁵ there are also reports of execution of detainees by security forces in Libya;⁹⁶ and extra-judicial/summary executions.⁹⁷ The violation of the right to life is also a major vice that plagues Nigeria, using the prison system for instance it is reported that violence is a habitual practice in Nigerian prisons that has led to countless deaths in custody.⁹⁸

Conclusion and Recommendations:

Protection of life and property is the primary purpose of governance. However, public officers become perverted/corrupted, when their actions are antithetical to their constitutionally mandated functions. Thus, leading to the violation of the rule of law, through acts of abuse of public authority, and breaches of public trust – which can lead to a wide range of human right infringements including the violation of the right to life, which occurs in the most serious/grievously damaging instances of public sector corruption. Nonetheless, the state depends on the law and its administrative system to construct efficacious checks and balance, as well as proactive and corrective measure to checkmate the acts of corrupt and nefarious persons, who act contrary to public interest. That is the basis of the state's responsibility to protect. Hence, such legal measures will be substantive, as well as procedural. Consequently, the state is obliged to enact anti-corruption as well as criminal legislation that proscribes and vilifies all acts that can lead to the violation of the right to life. The state is also obliged to formulate due process requirements to regulate the discretion of law enforcement officers, in order to curtail acts of abuse of office. The state can also ensure due diligence by creating adhoc bodies or monitoring agencies, which will be designated to

⁸⁷'n 86' para 11

⁸⁸ (2018) 16 NWLR (Pt. 1644) 24

⁸⁹ CCPR/61/D/706/1996

⁹⁰ *Mrs. G. T. v Australia* CCPR/61/D/706/1996 para 2.3

⁹¹ Ibid

⁹² Ibid

⁹³ *Mrs. G. T. v Australia* CCPR/61/D/706/1996 para 2.3

⁹⁴ See 'n 93' 8.4 and 8.5

⁹⁵ *Mr. Anthony v. Sierra Leone* CCPR/C/72/D/839/1998 paras 2.3 & 2.4

⁹⁶ *Khaled II Khwildy v Libya* CCCPR/C/106/D/1804/2008 para 2.3

Khaled v Tunisia CAT/C/23/D/60/1996

⁹⁷ *Ibrahim Aboubakr v Libya* CCPR/C/108/D/1832/2008 para 2.5

Nouar Abdelmalek v Algeria CAT/C/52/D/402/2009 para 2.1

Djamila Bendib v Algeria CAT/C/51/D/376/2009 paras 2.3 & 2.4

Fatiha v Algeria CAT/C/64/D/341/2008 para 2.1

Mohamed Mehalli v Algeria CCPR/C/110/D/1900/2009 para 2.3

Bousseloub v Algeria CCPR/C/111/D/1974/2010 para 2.1 & 2.3

Khalifa Fedsi v Algeria CCPR/C/111/D/1964/2010 para 2.2

Aicha Dehimi v Algeria CCPR/C/112/D/2086/2011 para 2.2

⁹⁸ See V Saleh-Hanna, *Colonial Systems of Control: Criminal Justice in Nigeria*. University of Ottawa Press [2008] <<https://www.jstor.org/stable/j.ctt1ckph37.5>> accessed 16 May 2025 5

monitor or accompany law enforcement officers in the course of arrests and other interactions with citizens and suspects in order to ensure that authority is not abused. A modern system of surveillance and wide installation of security cameras in as much areas as possible, is also advisable as a means of monitoring the affairs of officers, in order to identify and possibly punish corrupt and abusive public officers. Nonetheless, the most important value is the ethicality of government, because corrupt public officials are more susceptible to nefarious practices that can possibly violate the fundamental right to life.